

Michael D Millard
 Name
7911 Morrow Ave NE
Albuquerque, NM 87110
 Address

FILED
 UNITED STATES DISTRICT COURT
 ALBUQUERQUE, NEW MEXICO

MAY 19 2025

MITCHELL R. ELFERS

UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEW MEXICO

Michael D Millard, Plaintiff
 (Full Name)

CASE NO. CV 25-468 GBW
 (To be supplied by the Clerk)

v.

U.S. Department of Transportation, Defendant(s)

CIVIL RIGHTS COMPLAINT
 PURSUANT TO 42 U.S.C. §1983

A. JURISDICTION

1) Michael Millard, is a citizen of New Mexico
 (Plaintiff) (State)
 who presently resides at 7911 Morrow Ave NE Albuquerque NM 87110
 (Mailing address or place of confinement)

2) Defendant SEAN DUFFY is a citizen of
 (Name of first defendant)
Washington DC, and is employed as
 (City, State)
Secretary of Transportation. At the time the claim(s)
 (Position and title, if any)

alleged in this complaint arose, was this defendant acting under color of state law?

Yes ☒ No ☐ If your answer is "Yes", briefly explain:

Executed Executive Order 14286 to place drivers out-of-service per 49 Code of Federal Regulations 391.11(b)(2) violating 49 U.S. Code 521(b)(5)(A) and (B), whereas there's no "imminent hazard."

- 3) Defendant None is a citizen of _____
(Name of second defendant)
_____, and is employed as _____
(City, State)
_____. At the time the claim(s)
(Position and title, if any)
alleged in this complaint arose, was this defendant acting under color of state.
Yes ☐ No ☐ If your answer is "Yes"; briefly explain:

(Use the back of this page to furnish the above information for additional defendants.)

- 4) Jurisdiction is invoked pursuant to 28 U.S.C. §1343(3), 42U.S.C. §1983. (If you wish to assert Jurisdiction under different or additional statutes, you may list them below.)

B. NATURE OF THE CASE

- 1) Briefly state the background of your case.
49 Code of Federal Regulations (CFR) 391.11(b)(2) was in the North American Standard Out-of-Service (OOS) Criteria April 2005 until April 2015. 49 CFR 391.11(b)(2) requires commercial Motor Vehicle (CMV) drivers to read, speak, and write in English. 49 CFR 391.11(b)(2) was removed from the OOS Criteria for violation of the 14th Amendment as Spanish speaking officers gave Spanish speaking drivers latitude, but not Polish, Punjabi, Russian, etc. drivers. Having ~~part~~ 49 CFR Part 391.11(b)(2) in the OOS Criteria is a violation of 49 U.S. Code 521(b)(5)(A) and (B) as it is not an "imminent hazard."

C. CAUSE OF ACTION

- 1) I allege that the following of my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary, you may attach up to two additional pages (8 1/2" x 11") to explain any allegation or to list additional supporting facts.

A)(1) Count I: Road side inspections ~~are a vi~~ to administer English test for compliance with 49 CFR Part 391.11(b)(2) are a violation of my 5th Amendment.

- (2) Supporting Facts: (Include all facts you consider important, including names of persons involved, places and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

49 USC 521(b)(5)(A) requires a violation of the Federal Motor Carrier Safety Regulations (FMCSR) 49 CFR Part 350 through 399 to pose an "imminent hazard" as defined by 49 USC 521(b)(5)(B) for a driver to be placed out-of-service (OOS).

- B)(1) Count II:

Drivers placed OOS for 49 CFR Part 391.11(b)(2) can have their equipment towed in violation of the 4th Amendment. 49 USC 521(b)(5)(A) requires a violation of the FMCSR to pose an "imminent hazard."

- (2) Supporting Facts:

see attached packet.

C)(1) Count III:

The Secretary of the U.S. Department of Transportation violated 49 U.S. Code 322(b) by adopting the OOS criteria via 49 CFR Part 385.4. The OOS criteria is written by the Commercial Vehicle

(2) Supporting Facts: Safety Alliance a 503(c) non-profit organization.

The violation violates CMV drivers' 4th, 5th, and 14th Amendments.

See Attached packet

D) PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1) Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment?

Yes ☐ No ☒ If your answer is "YES", describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

a) Parties to previous lawsuit.

Plaintiffs: N/A

Defendants: _____

b) Name of court and docket number:

c) Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

d) Issues raised: _____

- e) Approximate date of filing lawsuit: _____
- f) Approximate date of disposition: _____
- 2) I have previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C. Yes ☐ No ☒ If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No," briefly explain why administrative relief was not sought.

E. REQUEST FOR RELIEF

- 1) I believe that I am entitled to the following relief:
- A.) HAVE 49 CFR 395.11(b)(2) removed from the OOS criteria
- B.) HAVE the OOS criteria removed until the Secretary of Transportation follows 49 USC 521(b)(5)(A) and (B), 49 USC 302, 49 USC 322, and 5 USC 553

Signature of Attorney (if any)



Signature of Petitioner

Attorney's full address and telephone number.

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is the plaintiff in the above action, that he has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. Sec. 1746. 18 U.S.C. Sec. 1621.

Executed at _____ on _____ 20____
(Location) (Date)

(Signature)

UNITED STATES DISTRICT COURT

for the

District of New Mexico



United States of America

v.

Michael D. Millard

Case No.

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 19, 2025 in the county of Bernalillo in the
United States District of New Mexico, the defendant(s) violated:

Code Section

5 USC §533(b), 49 USC §302(b)(2),
 49 USC §322(b), and §31136

Offense Description

The Federal Motor Carrier Safety Administration a component of the US
 Department of Transportation (US DOT) adopting the North American
 Standard Out-of-Service Criteria without following the applicable United
 States Codes (USC.)

This criminal complaint is based on these facts:

See attachments.

☒ Continued on the attached sheet.*Complainant's signature*

Michael D. Millard

Printed name and title

Sworn to before me and signed in my presence.

Date: _____

Judge's signature

City and state: _____

Printed name and title

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1 The Federal Motor Carrier Safety Administration a component of the U.S.
2 Department of Transportation (DOT) per 49 Code of Federal Regulations (CFR) Part
3 §385.4(b) Matter Incorporated by Reference adopted (1) “**North American Standard Out-of-**
4 **Service Criteria** and Level VI Inspection Procedures and Out-of-Service Criteria for
5 Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled
6 Quantities of Radioactive Materials as defined in 49 CFR part 173.403,” **April 1, 2024**;
7 incorporation by reference approved for § 385.415(b). These allegations are focused on the
8 “**North American Standard Out-of-Service (OOS) Criteria**” (OOS Criteria) and
9 drivers/vehicles placed OOS during roadside inspections, not out-of-service-orders (OOSO)
10 issued by DOT against carriers at their place of business.

11 The incorporation by reference impacts approximately 5.8 million drivers of
12 commercial motor vehicles (CMV) as defined by 49 USC §31132 and §31301. The April
13 2025 OOS Criteria has been modified to accommodate President Trump’s Executive Order
14 14286 “Enforcing Commonsense Rules of the Road for America’s Truck Drivers,” and the
15 changes will impact the 5.8 million CMV drivers effective June 25, 2025. Section 3(b) of
16 President Trump’s Executive Order 14286 “Enforcing Commonsense Rules of the Road for
17 America’s Truck Drivers,” requires DOT to add English to the OOS Criteria to reverse
18 “English Language Proficiency Testing and Enforcement Policy MC-ECE-2016-006” issued
19 June 14, 2016. 14 months after 49 CFR Part §391.11(b)(2) was removed from the 2015 OOS
20 Criteria.

21 “49 CFR Part §391.11 General qualification of drivers. (b) Except as provided in
22 subpart G of this part, a person is qualified to drive a motor vehicle if he/she— (2) Can read
23 and speak the English language sufficiently to converse with the general public, to
24 understand highway traffic signs and signals in the English language, to respond to official
25 inquiries, and to make entries on reports and records.”

26 49 CFR Part §391.11(b)(2) was in the OOS Criteria April 2005 until April 2015. 49
27 CFR Part §391.11(b)(2) was removed per an article in Transport Topics by Eric Miller Staff
28 Reporter published March 16, 2015; “***Kepler said the language requirement was removed***
29 ***this year because lacking command of a language does not create an “imminent hazard”***
30 ***or place a driver in “imminent danger of a crash.”***

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31 Removing 49 CFR Part §391.11(b)(2) from the OOS Criteria met the requirements of
32 49 USC §521(b)(5)(A); whereas, DOT has no regulation or evidence to substantiate that not
33 reading, writing, or speaking English meets the requirements of;

34 “49 USC §521(b)(5)(B) *In this paragraph, "imminent hazard" means any*
35 *condition of vehicle, employee, or commercial motor vehicle operations which*
36 *substantially increases the likelihood of serious injury or death if not discontinued*
37 *immediately.*”

38 Having 49 CFR Part §391.11(b)(2) in the OOS Criteria from April 1, 2005 until
39 March 31, 2014 violated 49 USC §521(b)(5)(A) and (B) as there was no evidence to
40 substantiate that a driver’s inability to speak, read, or write English created an “imminent
41 treat” that substantially increased the likelihood of serious injury or death.

42 May 12, 2003; Federal Register; Volume 68; Number 142; 49 CFR Part 391 [Docket
43 Number FMCSA 1997-2759]; RIN 2126-AA31 (Formerly RIN 2125-AE19); English
44 Language Requirements Qualification of Drivers withdrawal indicates the DOT didn’t see
45 English skills as an imminent threat making it unclear why 49 CFR Part §391.11(b)(2) was
46 added to the OOS Criteria April 1, 2005.

47 The OOS is published by the Commercial Motor Vehicle Safety Alliance (CVSA) a
48 503(c) non-profit organization whose members are primarily the state law enforcement
49 officers that collect data for the DOT per 49 USC §31102 Motor carrier safety assistance
50 program (MCSAP.)

51 It is alleged the adoption of the OOS violates 5 USC §553 Rule Making document not
52 open to public comment via the Federal Register; 49 USC §302(b) Congress did not approve
53 adoption of “criteria”; 49 USC §322(a) General powers DOT can only delegate “*duties and*
54 *powers to an officer or employee of the Department.*,” and 49 USC §31136(c) United States
55 Government regulations requires DOT (c) Procedures and Considerations requires a
56 regulation to follow section 553 of 5 USC.

57 DOT cannot delegate its authority to identify an “imminent hazard” as identified by
58 49 USC §521(b)(5)(A) and (B) to an entity that’s not an officer or employee of DOT per 49
59 USC §322(a); therefore, DOT not CVSA should publish the OOS Criteria.
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The English issue in 49 CFR Part §391.11(b)(2) applies to CMV drivers as defined by 49 USC §31132, the short answer is 10,001 pounds or more in interstate commerce. In 2022 DOT reported 5.8 million total drivers subject to 49 CFR Part §391.11(b)(2.) For 49 CFR Part 383.133(c)(5) that requires the commercial driver's license (CDL) skills test in English with no interpreter a CMV is defined by 49 USC §31301 or 26,001 pounds or more.

49 CFR § 383.133 Test methods. (c) Skills tests: (5) Interpreters are prohibited during the administration of skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

49 CFR § 384.307 FMCSA program reviews of State compliance. (a) FMCSA Program Reviews. Each State's CDL program will be subject to review to determine whether or not the State meets the general requirement for substantial compliance in § 384.301. The State must cooperate with the review and provide any information requested by the FMCSA.

49 CFR § 384.401 Withholding of funds based on noncompliance. (a) Following the first year of noncompliance. An amount up to 4 percent of the Federal-aid highway funds required to be apportioned to any State under 23 U.S.C. 104(b)(1) and (2) shall be withheld from a State on the first day of the fiscal year following such State's first year of noncompliance under this part.

It is fundamentally wrong to place all the burden of English-speaking drivers on the carriers' shoulders. Since 2011 49 CFR Part §383.133(c)(5) has required the CDL skills test to be administered in English without an interpreter. DOT and its state CDL partners have neglected to test CMV drivers in English or there would be approximately 4.172 million CDL holders that speak English proficiently. Since 2015 there has not been an English proficiency test developed. From 2005 to 2015 there were issues with Spanish speaking officers gave Spanish speaking drivers latitude, however, Polish, Russian, Punjabi, etc. speaking drivers weren't afforded the same latitude. DOT's inaction has caused a situation warranting President Trump's action.

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To demonstrate the range of confusion and misuse of the CVSA as a legal reference in United States v. Marzett Parker, Court of Appeals for the Eighth Circuit 10/16/2009 Docket Number: 08-2883 it was argued: “**2 The Commercial Vehicle Safety Alliance authorizes officers such as Officer Wilkins to enforce federal motor vehicle laws by checking licenses, logbooks, insurance, etc. See Commercial Vehicle Safety Alliance, North American Standard Inspection Levels [hereinafter NAISP Levels], http://www.cvsa.org/programs/nas_levels.aspx (last visited Oct. 5, 2009); see also 49 C.F.R. § 350.105.**” Where does the CVSA garner authority to authorize officers to conduct CMV inspections? The officer was granted the authority to inspect the CMV by *Revisor of Missouri Title XIX Motor Vehicle, Watercraft and Aviation, Chapter 304.230 Enforcement of load laws – commercial vehicle inspectors, powers*, not the CVSA.

DOT has not established that a driver’s English speaking, writing, and reading skills are an imminent hazard as required by 49 USC §521(b)(5)(A) and (B), therefore, a driver cannot be placed OOS during a roadside inspection.

The OOS Criteria is not published by DOT, its reference in 49 CFR Part §385.4 violates 5 USC §553; 49 USC §302; 49 USC §322; and 49 USC §31136. English should be blocked from the OOS Criteria as it doesn’t meet the “imminent danger” threshold established by 49 USC §521(b)(5)(A) and (B), and the OOS Criteria should be removed from CVSA and fall under the DOT. If CVSA retains the rights to the OOS Criteria the DOT should develop a roadside inspection process per 49 USC §31102(O)(iii) and list of OOS violations per 49 USC §521(b)(5)(A) and (B.)

OOS violations impact motor carriers Compliance Safety Accountability (CSA) scores DOT utilizes to evaluate carriers’ safety management. OOS violations carry a greater impact on the severity of a violation. Depending on whether a violation is cited as non-OOS or as OOS the same CFR carries a different value if marked as OOS.

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The OOS Criteria *limits the scope* of the Federal Motor Carrier Safety Regulations; whereas it allows vehicles to operate when there are safety defects present:

49 CFR Part § 393.1 Scope of the rules in this part. (c) *No motor carrier may operate* a commercial motor vehicle, or cause or permit such vehicle to be operated, unless it is equipped in accordance with the requirements and specifications of this part.

49 CFR Part § 396.3 Inspection, repair, and maintenance. (a) (1) Parts and accessories shall be in safe and proper operating condition *at all times*. These include those specified in part 393 of this subchapter and any additional parts and accessories which may affect safety of operation, including but not limited to, frame and frame assemblies, suspension systems, axles and attaching parts, wheels and rims, and steering systems.

The OOS Criteria should be reviewed by DOT to ensure it meets the standards of 49 USC §521(b)(5)(A) and (B.)

DOT has delegated too much responsibility to CVSA, the public/trucking industry has zero input on how roadside inspections are performed or which violations are OOS.

Attachments:

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169	Exhibit 12: English Language Proficiency Testing and Enforcement Policy	
170	 MC-ECE-2016-006" issued June 14, 2016.....	Pages 53 - 56
171	Exhibit 13: May 12, 2003; Federal Register; Volume 68; Number 142;	
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173	 RIN 2126-AA31 (Formerly RIN 2125-AE19); English Language	
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Exhibit 1:
5 USC §553. Rule Making

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- 206 • **5 USC §553. Rule making**
- 207 • (a) This section applies, according to the provisions thereof, except to the extent that there is
- 208 involved-
- 209 • (1) a military or foreign affairs function of the United States; or
- 210 • (2) a matter relating to agency management or personnel or to public property, loans, grants,
- 211 benefits, or contracts.
- 212 • (b) General notice of proposed rule making shall be published in the Federal Register, unless
- 213 persons subject thereto are named and either personally served or otherwise have actual
- 214 notice thereof in accordance with law. The notice shall include-
- 215 • (1) a statement of the time, place, and nature of public rule making proceedings;
- 216 • (2) reference to the legal authority under which the rule is proposed;
- 217 • (3) either the terms or substance of the proposed rule or a description of the subjects and
- 218 issues involved; and
- 219 • (4) the Internet address of a summary of not more than 100 words in length of the proposed
- 220 rule, in plain language, that shall be posted on the Internet website under section 206(d) of
- 221 the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as regulations.gov).
- 222 • Except when notice or hearing is required by statute, this subsection does not apply-
- 223 • (A) to interpretative rules, general statements of policy, or rules of agency organization,
- 224 procedure, or practice; or
- 225 • (B) when the agency for good cause finds (and incorporates the finding and a brief statement
- 226 of reasons therefor in the rules issued) that notice and public procedure thereon are
- 227 impracticable, unnecessary, or contrary to the public interest.
- 228 • (c) After notice required by this section, the agency shall give interested persons an
- 229 opportunity to participate in the rule making through submission of written data, views, or
- 230 arguments with or without opportunity for oral presentation. After consideration of the
- 231 relevant matter presented, the agency shall incorporate in the rules adopted a concise general
- 232 statement of their basis and purpose. When rules are required by statute to be made on the
- 233 record after opportunity for an agency hearing, sections 556 and 557 of this title apply
- 234 instead of this subsection.
- 235 • (d) The required publication or service of a substantive rule shall be made not less than 30
- 236 days before its effective date, except-
- 237 • (1) a substantive rule which grants or recognizes an exemption or relieves a restriction;
- 238 • (2) interpretative rules and statements of policy; or
- 239 • (3) as otherwise provided by the agency for good cause found and published with the rule.
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Exhibit 2:

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49 USC §302. Policy standards for

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- 260 • **49 USC §302. Policy standards for transportation**
- 261 • (a) The Secretary of Transportation is governed by the transportation policy of sections
- 262 10101 and 13101 of this title in addition to other laws.
- 263 • *(b) This subtitle and chapters 221 and 315 of this title do not authorize, without*
- 264 *appropriate action by Congress, the adoption, revision, or implementation of a*
- 265 *transportation policy or investment standards or criteria.*
- 266 • (c) The Secretary shall consider the needs-
- 267 • (1) for effectiveness and safety in transportation systems; and
- 268 • (2) of national defense.
- 269 • (d)(1) It is the policy of the United States to promote the construction and commercialization
- 270 of high-speed ground transportation systems by-
- 271 • (A) conducting economic and technological research;
- 272 • (B) demonstrating advancements in high-speed ground transportation technologies;
- 273 • (C) establishing a comprehensive policy for the development of such systems and the
- 274 effective integration of the various high-speed ground transportation technologies; and
- 275 • (D) minimizing the long-term risks of investors.
- 276 • (2) It is the policy of the United States to establish in the shortest time practicable a United
- 277 States designed and constructed magnetic levitation transportation technology capable of
- 278 operating along Federal-aid highway rights-of-way, as part of a national transportation
- 279 system of the United States.
- 280 • (e) Intermodal Transportation.-It is the policy of the United States Government to encourage
- 281 and promote development of a national intermodal transportation system in the United States
- 282 to move people and goods in an energy-efficient manner, provide the foundation for
- 283 improved productivity growth, strengthen the Nation's ability to compete in the global
- 284 economy, and obtain the optimum yield from the Nation's transportation resources.
- 285 • **NOTE: Is §302(b) applicable to the OOS Criteria?**

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Exhibit 3:

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49 USC §322 General Powers

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306 • **49 USC §322. General powers**

307 • (a) The Secretary of Transportation may prescribe regulations to carry out the duties and
308 powers of the Secretary. An officer of the Department of Transportation may prescribe
309 regulations to carry out the duties and powers of the officer.

310 • (b) The Secretary may delegate, and authorize successive delegations of, *duties and powers*
311 *of the Secretary to an officer or employee of the Department*. An officer of the Department
312 may delegate, and authorize successive delegations of, duties and powers of the officer to
313 another officer or employee of the Department. However, the duties and powers specified in
314 sections 103(c)(1),¹ 104(c)(1), and 106(g)(1) ¹ of this title may not be delegated to an officer
315 or employee outside the Administration concerned.

316 • (c) On a reimbursable basis when appropriate, the Secretary may, in carrying out aviation
317 duties and powers-

318 • (1) use the available services, equipment, personnel, and facilities of other civilian or military
319 departments, agencies, and instrumentalities of the United States Government, with their
320 consent;

321 • (2) cooperate with those departments, agencies, and instrumentalities in establishing and
322 using aviation services, equipment, and facilities of the Department; and

323 • (3) confer and cooperate with, and use the services, records, and facilities of, State, territorial,
324 municipal, and other agencies.

325 • (d) The Secretary may make expenditures to carry out aviation duties and powers, including
326 expenditures for-

327 • (1) rent and personal services;

328 • (2) travel expenses;

329 • (3) office furniture, equipment, supplies, lawbooks, newspapers, periodicals, and reference
330 books, including exchanges;

331 • (4) printing and binding;

332 • (5) membership in and cooperation with domestic or foreign organizations related to, or a
333 part of, the civil aeronautics industry or the art of aeronautics;

334 • (6) payment of allowances and other benefits to employees stationed in foreign countries to
335 the same extent authorized for members of the Foreign Service of comparable grade;

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- (7) investigations and studies about aeronautics; and
- (8) acquiring, exchanging, operating, and maintaining passenger-carrying aircraft and automobiles and other property.
- (e) The Secretary may negotiate, without advertising, the purchase of technical or special property related to air navigation when the Secretary decides that-
 - (1) making the property would require a substantial initial investment or an extended period of preparation; and
 - (2) procurement by advertising would likely result in additional cost to the Government by duplication of investment or would result in duplication of necessary preparation that would unreasonably delay procuring the property.
- **NOTE: §322(b) did the FMCSA have the jurisdiction to accept the OOS Criteria that limits the scope of the FMCSR?**

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Exhibit 4: 49 USC §351.

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Judicial review of actions in carrying out

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- 389 • **49 USC §351. Judicial review of actions in carrying out certain transferred duties and**
 390 **powers**
- 391 • (a) Judicial Review.-An action of the Secretary of Transportation in carrying out a duty or
 392 power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat.
 393 931), or an action of the Administrator of the Federal Railroad Administration, the *Federal*
 394 *Motor Carrier Safety Administration*, or the Federal Aviation Administration in carrying out
 395 a duty or power *specifically assigned to the Administrator by that Act, may be reviewed*
 396 *judicially to the same extent and in the same way as if the action had been an action by the*
 397 *department, agency, or instrumentality of the United States Government carrying out the*
 398 *duty or power immediately before the transfer or assignment.*
- 399 • (b) Application of Procedural Requirements.-A statutory requirement related to notice, an
 400 opportunity for a hearing, action on the record, or administrative review that applied to a duty
 401 or power transferred by the Act applies to the Secretary or Administrator when carrying out
 402 the duty or power.
- 403 • (c) Nonapplication.-This section does not apply to a duty or power transferred from the
 404 Interstate Commerce Commission to the Secretary under section 6(e)(1)–(4) and (6)(A) of
 405 the Act.

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**Exhibit 5: 49 USC §352. Authority to carry
out certain transferred duties and powers**

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- 436 • 49 USC §352. Authority to carry out certain transferred duties and powers
- 437 • *In carrying out a duty or power transferred under the Department of Transportation Act*
- 438 *(Public Law 89–670, 80 Stat. 931)*, the Secretary of Transportation and the Administrators of
- 439 the Federal Railroad Administration, the *Federal Motor Carrier Safety Administration*, and
- 440 the Federal Aviation Administration *have the same authority that was vested in the*
- 441 *department, agency, or instrumentality of the United States Government carrying out the*
- 442 *duty or power immediately before the transfer.* An action of the Secretary or Administrator
- 443 in carrying out the duty or power has the same effect as when carried out by the department,
- 444 agency, or instrumentality.
- 445 • **NOTE:** §351 nor §352 grant the DOT or FMCSA additional jurisdiction, just the ability to
- 446 take legal actions as if one-in-the-same.

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Exhibit 6:
49 USC §521. Civil penalties

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• **49 USC §521. Civil penalties**

• (a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record as required under that section, is liable to the United States Government for a civil penalty of \$500 for each violation.

• (2) A rail carrier, and a lessor, receiver, or trustee of that carrier, violating section 504(c)(1) of this title, is liable to the Government for a civil penalty of \$100 for each violation.

• (3) A rail carrier, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective service against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Secretary or answer a question, that does not make a report to the Secretary or does not specifically, completely, and truthfully answer the question, is liable to the Government for a civil penalty of \$100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

• (5) Trial in a civil action under this subsection is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

• (b) Violations Relating to Commercial Motor Vehicle Safety Regulation and Operators.-

• (1) Notice.-

• (A) In general.-If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A),¹ or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

• (B) Nonapplicability to reporting and recordkeeping violations.-Subparagraph (A) shall not apply to reporting and recordkeeping violations.

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- 526 • (2) Civil Penalty.-
- 527 • (A) In general.-Except as otherwise provided in this subsection, any person who is
- 528 determined by the Secretary, after notice and opportunity for a hearing, to have committed an
- 529 act that is a violation of regulations issued by the Secretary under subchapter III of chapter
- 530 311 (except sections 31138 and 31139) or section 31502 of this title shall be liable to the
- 531 United States for a civil penalty in an amount not to exceed \$10,000 for each offense.
- 532 Notwithstanding any other provision of this section (except subparagraph (C)), no civil
- 533 penalty shall be assessed under this section against an employee for a violation in an amount
- 534 exceeding \$2,500.
- 535 • (B) Recordkeeping and reporting violations.-A person required to make a report to the
- 536 Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this
- 537 title or under any regulation issued by the Secretary pursuant to subchapter III of chapter
- 538 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by
- 539 motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent,
- 540 or employee of that person-
- 541 • (i) who does not make that report, does not specifically, completely, and truthfully answer
- 542 that question in 30 days from the date the Secretary requires the question to be answered, or
- 543 does not make, prepare, or preserve that record in the form and manner prescribed by the
- 544 Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed
- 545 \$1,000 for each offense, and each day of the violation shall constitute a separate offense,
- 546 except that the total of all civil penalties assessed against any violator for all offenses related
- 547 to any single violation shall not exceed \$10,000; or
- 548 • (ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record,
- 549 knowingly files a false report with the Secretary, knowingly makes or causes or permits to be
- 550 made a false or incomplete entry in that record about an operation or business fact or
- 551 transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation
- 552 or order of the Secretary, shall be liable to the United States for a civil penalty in an amount
- 553 not to exceed \$10,000 for each violation, if any such action can be shown to have
- 554 misrepresented a fact that constitutes a violation other than a reporting or recordkeeping
- 555 violation.

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- 556 • (C) Violations pertaining to CDLs.-Any person who is determined by the Secretary, after
 557 notice and opportunity for a hearing, to have committed an act which is a violation of section
 558 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title shall be liable to the United
 559 States for a civil penalty not to exceed \$2,500 for each offense.
- 560 • (D) Determination of amount.-The amount of any civil penalty, and a reasonable time for
 561 abatement of the violation, shall by written order be determined by the Secretary, taking into
 562 account the nature, circumstances, extent, and gravity of the violation committed and, with
 563 respect to the violator, the degree of culpability, history of prior offenses, effect on ability to
 564 continue to do business, and such other matters as justice and public safety may require. In
 565 each case, the assessment shall be calculated to induce further compliance.
- 566 • (E)(i) Copying of records and access to equipment, lands, and buildings.-A person subject
 567 to chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a
 568 commercial motor vehicle subject to part B of subtitle VI who fails to allow promptly, upon
 569 demand, the Secretary (or an employee designated by the Secretary) to inspect and copy any
 570 record or inspect and examine equipment, lands, buildings and other property in accordance
 571 with sections 504(c), 5121(c), and 14122(b) shall be liable to the United States for a civil
 572 penalty not to exceed \$1,000 for each offense. Each day the Secretary is denied the right to
 573 inspect and copy any record or inspect and examine equipment, lands, buildings and other
 574 property shall constitute a separate offense, except that the total of all civil penalties against
 575 any violator for all offenses related to a single violation shall not exceed \$10,000. In the case
 576 of a motor carrier, the Secretary may also place the violator's motor carrier operations out of
 577 service. It shall be a defense to a penalty that the records did not exist at the time of the
 578 Secretary's request or could not be timely produced without unreasonable expense or effort.
 579 Nothing in this subparagraph amends or supersedes any remedy available to the Secretary
 580 under section 502(d), section 507(c), or any other provision of this title.
- 581 • (ii) *Place out of service.-The Secretary may by regulation adopt procedures for placing out*
 582 *of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to*
 583 *promptly allow the Secretary to inspect and copy a record or inspect equipment, land,*
 584 *buildings, or other property.*
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- (F) Penalty for violations relating to out of service orders.-A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed \$25,000.
- (3) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement of such notice in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title, as the case may be.
- (4) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, before referral to the Attorney General, such civil penalty may be compromised by the Secretary.
- (5)(A) **If, upon inspection or investigation, the Secretary determines that *a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations.*** In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with *section 554 of title 5*, except that such review shall occur not later than 10 days after issuance of such order.
- (B) **In this paragraph, "imminent hazard" means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.**

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- 617 • (6) Criminal Penalties.-
- 618 • (A) In general.-Any person who knowingly and willfully violates any provision of
- 619 subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this
- 620 title, or a regulation issued under any of those provisions shall, upon conviction, be subject
- 621 for each offense to a fine not to exceed \$25,000 or imprisonment for a term not to exceed one
- 622 year, or both, except that, if such violator is an employee, the violator shall only be subject to
- 623 penalty if, while operating a commercial motor vehicle, the violator's activities have led or
- 624 could have led to death or serious injury, in which case the violator shall be subject, upon
- 625 conviction, to a fine not to exceed \$2,500.
- 626 • (B) Violations pertaining to CDLs.-Any person who knowingly and willfully violates-
- 627 • (i) any provision of section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of
- 628 this title or a regulation issued under such section, or
- 629 • (ii) with respect to notification of a serious traffic violation as defined under section 31301 of
- 630 this title, any provision of section 31303(a) of this title or a regulation issued under section
- 631 31303(a), shall, upon conviction, be subject for each offense to a fine not to exceed \$5,000 or
- 632 imprisonment for a term not to exceed 90 days, or both.
- 633 • (7) The Secretary shall issue regulations establishing penalty schedules designed to induce
- 634 timely compliance for persons failing to comply promptly with the requirements set forth in
- 635 any notices and orders under this subsection.
- 636 • (8) Prohibition on operation in interstate commerce after nonpayment of penalties.-
- 637 • (A) In general.-An owner or operator of a commercial motor vehicle against whom a civil
- 638 penalty is assessed under this chapter or chapter 51, 149, or 311 of this title and who does not
- 639 pay such penalty or fails to arrange and abide by an acceptable payment plan for such civil
- 640 penalty may not operate in interstate commerce beginning on the 91st day after the date
- 641 specified by order of the Secretary for payment of such penalty. This paragraph shall not
- 642 apply to any person who is unable to pay a civil penalty because such person is a debtor in a
- 643 case under chapter 11 of title 11, United States Code.
- 644 • (B) Regulations.-Not later than 12 months after the date of the enactment of this paragraph,
- 645 the Secretary, after notice and an opportunity for public comment, shall issue regulations
- 646 setting forth procedures for ordering commercial motor vehicle owners and operators
- 647 delinquent in paying civil penalties to cease operations until payment has been made.

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- 648 • (9) Any aggrieved person who, after a hearing, is adversely affected by a final order issued
649 under this section may, within 30 days, petition for review of the order in the United States
650 Court of Appeals in the circuit wherein the violation is alleged to have occurred or where the
651 violator has his principal place of business or residence, or in the United States Court of
652 Appeals for the District of Columbia Circuit. Review of the order shall be based on a
653 determination of whether the Secretary's findings and conclusions were supported by
654 substantial evidence, or were otherwise not in accordance with law. No objection that has not
655 been urged before the Secretary shall be considered by the court, unless reasonable grounds
656 existed for failure or neglect to do so. The commencement of proceedings under this
657 subsection shall not, unless ordered by the court, operate as a stay of the order of the
658 Secretary.
- 659 • (10) All penalties and fines collected under this section shall be deposited into the Highway
660 Trust Fund (other than the Mass Transit Account).
- 661 • (11) In any action brought under this section, process may be served without regard to the
662 territorial limits of the district of the State in which the action is brought.
- 663 • (12) In any proceeding for criminal contempt for violation of an injunction or restraining
664 order issued under this section, trial shall be by the court, or, upon demand of the accused, by
665 a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of
666 Criminal Procedure.
- 667 • (13) The provisions of this subsection shall not affect chapter 51 of this title or any regulation
668 promulgated by the Secretary under chapter 51.
- 669 • (14) As used in this subsection, the terms "commercial motor vehicle", "employee",
670 "employer", and "State" have the meaning such terms have under section 31132 of this title.
- 671 • (15) Impoundment of commercial motor vehicles.-
- 672 • (A) Enforcement of imminent hazard out-of-service orders.- (NOTE: "Order" not "out-of-
673 service")
- 674 • (i) The Secretary, or an authorized State official carrying out motor carrier safety
675 enforcement activities under section 31102, may enforce an imminent hazard out-of-service
676 order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a
677 regulation promulgated thereunder, by towing and impounding a commercial motor vehicle
678 until the order is rescinded.

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- 679 • (ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker,
680 or other party to arrange for the alternative transportation of any cargo or passenger being
681 transported at the time the commercial motor vehicle is immobilized. In the case of a
682 commercial motor vehicle transporting passengers, the Secretary or authorized State official
683 shall provide reasonable, temporary, and secure shelter and accommodations for passengers
684 in transit.
- 685 • (iii) The Secretary's designee or an authorized State official carrying out motor carrier safety
686 enforcement activities under section 31102, shall immediately notify the owner of a
687 commercial motor vehicle of the impoundment and the opportunity for review of the
688 impoundment. A review shall be provided in accordance with section 554 of title 5, except
689 that the review shall occur not later than 10 days after the impoundment.
- 690 • (B) Issuance of regulations.-The Secretary shall promulgate regulations on the use of
691 impoundment or immobilization of commercial motor vehicles as a means of enforcing
692 additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or
693 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this
694 subparagraph shall include consideration of public safety, the protection of passengers and
695 cargo, inconvenience to passengers, and the security of the commercial motor vehicle.
- 696 • (C) Definition.-In this paragraph, the term "impoundment" or "impounding" means the
697 seizing and taking into custody of a commercial motor vehicle or the immobilizing of a
698 commercial motor vehicle through the attachment of a locking device or other mechanical or
699 electronic means.

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Exhibit 7:
49 USC §31301. Definitions

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• **49 USC §31301. Definitions**

- (4) "**commercial motor vehicle**" means a motor vehicle used in commerce to transport passengers or property that-
 - (A) has a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds, whichever is greater, or a lesser gross vehicle weight rating or gross vehicle weight the Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds;
 - (B) is designed to transport at least 16 passengers including the driver; or
 - (C) is used to transport material found by the Secretary to be hazardous under section 5103 of this title, except that a vehicle shall not be included as a commercial motor vehicle under this subclause if-
 - (i) the vehicle does not satisfy the weight requirements of subclause (A) of this clause;
 - (ii) the vehicle is transporting material listed as hazardous under section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by the Secretary or is transporting a consumer commodity or limited quantity of hazardous material as defined in section 171.8 of title 49, Code of Federal Regulations; and
 - (iii) the Secretary does not deny the application of this exception to the vehicle (individually or as part of a class of motor vehicles) in the interest of safety.
- (6) "**driver's license**" means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.

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Exhibit 8:

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49 USC §31102. Motor carrier safety

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assistance program

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- 786 • **49 USC §31102. Motor carrier safety assistance program**
- 787 • (a) In General.-The Secretary of Transportation shall administer a motor carrier safety
- 788 assistance program funded under section 31104.
- 789 • (b) Goal.-The goal of the program is to ensure that the Secretary, States, local governments,
- 790 other political jurisdictions, federally recognized Indian tribes, and other persons work in
- 791 partnership to establish programs to improve motor carrier, commercial motor vehicle, and
- 792 driver safety to support a safe and efficient surface transportation system by-
- 793 • (1) making targeted investments to promote safe commercial motor vehicle transportation,
- 794 including the transportation of passengers and hazardous materials;
- 795 • (2) investing in activities likely to generate maximum reductions in the number and severity
- 796 of commercial motor vehicle crashes and in fatalities resulting from such crashes;
- 797 • (3) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver
- 798 safety regulations and practices consistent with Federal requirements; and
- 799 • (4) assessing and improving statewide performance by setting program goals and meeting
- 800 performance standards, measures, and benchmarks.
- 801 • (c) State Plans.-
- 802 • (1) In general.-In carrying out the program, the Secretary shall prescribe procedures for a
- 803 State to submit a multiple-year plan, and annual updates thereto, under which the State agrees
- 804 to assume responsibility for improving motor carrier safety by adopting and enforcing State
- 805 regulations, standards, and orders that are compatible with the regulations, standards, and
- 806 orders of the Federal Government on commercial motor vehicle safety and hazardous
- 807 materials transportation safety.
- 808 • (2) Contents.-The Secretary shall approve a State plan if the Secretary determines that the
- 809 plan is adequate to comply with the requirements of this section, and the plan-
- 810 • (A) implements performance-based activities, including deployment and maintenance of
- 811 technology to enhance the efficiency and effectiveness of commercial motor vehicle safety
- 812 programs;
- 813 • (B) designates a *lead State commercial motor vehicle safety agency* responsible for
- 814 administering the plan throughout the State;

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- 815 • (C) contains satisfactory assurances that the lead State commercial motor vehicle safety
816 agency has or will have the legal authority, resources, and qualified personnel necessary to
817 enforce the regulations, standards, and orders;
- 818 • (D) contains satisfactory assurances that the State will devote adequate resources to the
819 administration of the plan and enforcement of the regulations, standards, and orders;
- 820 • (E) provides a right of entry (or other method a State may use that the Secretary determines is
821 adequate to obtain necessary information) and inspection to carry out the plan;
- 822 • (F) provides that all reports required under this section be available to the Secretary on
823 request;
- 824 • (G) provides that the lead State commercial motor vehicle safety agency will adopt the
825 reporting requirements and use the forms for recordkeeping, inspections, and investigations
826 that the Secretary prescribes;
- 827 • (H) requires all registrants of commercial motor vehicles to demonstrate knowledge of
828 applicable safety regulations, standards, and orders of the Federal Government and the State;
- 829 • (I) provides that the State will grant maximum reciprocity for inspections conducted under
830 the North American Inspection Standards through the use of a nationally accepted system
831 that allows ready identification of previously inspected commercial motor vehicles;
- 832 • (J) ensures that activities described in subsection (h), if financed through grants to the State
833 made under this section, will not diminish the effectiveness of the development and
834 implementation of the programs to improve motor carrier, commercial motor vehicle, and
835 driver safety as described in subsection (b);
- 836 • (K) ensures that the *lead State commercial motor vehicle safety agency* will coordinate the
837 plan, data collection, and information systems with the State highway safety improvement
838 program required under section 148(c) of title 23;
- 839 • (L) ensures participation in appropriate Federal Motor Carrier Safety Administration
840 information technology and data systems and other information systems by all appropriate
841 jurisdictions receiving motor carrier safety assistance program funding;
- 842 • (M) ensures that information is exchanged among the States in a timely manner;
- 843 • (N) provides satisfactory assurances that the State will undertake efforts that will emphasize
844 and improve enforcement of State and local traffic safety laws and regulations related to
845 commercial motor vehicle safety;

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- 846 • *(O) provides satisfactory assurances that the State will address national priorities and*
847 *performance goals, including-*
- 848 • (i) activities aimed at removing impaired commercial motor vehicle drivers from the
849 highways of the United States through adequate enforcement of regulations on the use of
850 alcohol and controlled substances and by ensuring ready roadside access to alcohol detection
851 and measuring equipment;
- 852 • (ii) activities aimed at providing an appropriate level of training to State motor carrier safety
853 assistance program officers and employees on recognizing drivers impaired by alcohol or
854 controlled substances; and
- 855 • (iii) *when conducted with an appropriate commercial motor vehicle inspection*, criminal
856 interdiction activities, and appropriate strategies for carrying out those interdiction activities,
857 including interdiction activities that affect the transportation of controlled substances (as
858 defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of
859 1970 (21 U.S.C. 802) and listed in part 1308 of title 21, Code of Federal Regulations, as
860 updated and republished from time to time) by any occupant of a commercial motor vehicle;
- 861 • (P) provides that the State has established and dedicated sufficient resources to a program to
862 ensure that-
- 863 • (i) the State collects and reports to the Secretary accurate, complete, and timely motor carrier
864 safety data; and
- 865 • (ii) the State participates in a national motor carrier safety data correction system prescribed
866 by the Secretary;
- 867 • (Q) ensures that the State will cooperate in the enforcement of financial responsibility
868 requirements under sections 13906, 31138, and 31139 and regulations issued under those
869 sections;
- 870 • (R) ensures consistent, effective, and reasonable sanctions;
- 871 • (S) ensures that roadside inspections will be conducted at locations that are adequate to
872 protect the safety of drivers and enforcement personnel;
- 873 • (T) provides that the State will include in the training manuals for the licensing examination
874 to drive noncommercial motor vehicles and commercial motor vehicles information on best
875 practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

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- 876 • (U) provides that the State will enforce the registration requirements of sections 13902 and
877 31134 by prohibiting the operation of any vehicle discovered to be operated by a motor
878 carrier without a registration issued under those sections or to be operated beyond the scope
879 of the motor carrier's registration;
- 880 • (V) provides that the State will conduct comprehensive and highly visible traffic enforcement
881 and commercial motor vehicle safety inspection programs in high-risk locations and
882 corridors;
- 883 • (W) except in the case of an imminent hazard or obvious safety hazard, ensures that an
884 inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted
885 at a bus station, terminal, border crossing, maintenance facility, destination, or other location
886 where a motor carrier may make a planned stop (excluding a weigh station);
- 887 • (X) ensures that the State will transmit to its roadside inspectors notice of each Federal
888 exemption granted under section 31315(b) of this title and sections 390.23 and 390.25 of title
889 49, Code of Federal Regulations, and provided to the State by the Secretary, including the
890 name of the person that received the exemption and any terms and conditions that apply to
891 the exemption;
- 892 • (Y) except as provided in subsection (d), provides that the State-
- 893 • (i) will conduct safety audits of interstate and, at the State's discretion, intrastate new entrant
894 motor carriers under section 31144(g); and
- 895 • (ii) if the State authorizes a third party to conduct safety audits under section 31144(g) on its
896 behalf, the State verifies the quality of the work conducted and remains solely responsible for
897 the management and oversight of the activities;
- 898 • (Z) provides that the State agrees to fully participate in the performance and registration
899 information systems management under section 31106(b) not later than October 1, 2020, by
900 complying with the conditions for participation under paragraph (3) of that section, or
901 demonstrates to the Secretary an alternative approach for identifying and immobilizing a
902 motor carrier with serious safety deficiencies in a manner that provides an equivalent level of
903 safety;
- 904 • (AA) in the case of a State that shares a land border with another country, provides that the
905 State-

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- (i) will conduct a border commercial motor vehicle safety program focusing on international commerce that includes enforcement and related projects; or
- (ii) will forfeit all funds calculated by the Secretary based on border-related activities if the State declines to conduct the program described in clause (i) in its plan; and
- (BB) in the case of a State that meets the other requirements of this section and agrees to comply with the requirements established in subsection (l)(3), provides that the State may fund operation and maintenance costs associated with innovative technology deployment under subsection (l)(3) with motor carrier safety assistance program funds authorized under section 31104(a)(1).
- (3) Publication.-
 - (A) In general.-Subject to subparagraph (B), the Secretary shall publish each approved State multiple-year plan, and each annual update thereto, on a publically accessible Internet Web site of the Department of Transportation not later than 30 days after the date the Secretary approves the plan or update.
 - (B) Limitation.-Before publishing an approved State multiple-year plan or annual update under subparagraph (A), the Secretary shall redact any information identified by the State that, if disclosed-
 - (i) would reasonably be expected to interfere with enforcement proceedings; or
 - (ii) would reveal enforcement techniques or procedures that would reasonably be expected to risk circumvention of the law.
 - (d) Exclusion of U.S. Territories.-The requirement that a State conduct safety audits of new entrant motor carriers under subsection (c)(2)(Y) does not apply to a territory of the United States unless required by the Secretary.
 - (e) Intrastate Compatibility.-The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws, including regulations, with Federal motor carrier safety regulations to be enforced under subsections (b) and (c). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish motor vehicle safety.
 - (f) Maintenance of Effort.-

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- 936 • (1) Baseline.-Except as provided under paragraphs (2) and (3) and in accordance with section
937 5107 of the FAST Act, a State plan under subsection (c) shall provide that the total
938 expenditure of amounts of the lead State commercial motor vehicle safety agency responsible
939 for administering the plan will be maintained at a level each fiscal year that is at least equal
940 to-
- 941 • (A) the average level of that expenditure for fiscal years 2004 and 2005; or
- 942 • (B) the level of that expenditure for the year in which the Secretary implements a new
943 allocation formula under section 5106 of the FAST Act.
- 944 • (2) Adjusted baseline after fiscal year 2017.-At the request of a State, the Secretary may
945 evaluate additional documentation related to the maintenance of effort and may make
946 reasonable adjustments to the maintenance of effort baseline after the year in which the
947 Secretary implements a new allocation formula under section 5106 of the FAST Act, and this
948 adjusted baseline will replace the maintenance of effort requirement under paragraph (1).
- 949 • (3) Waivers.-At the request of a State, the Secretary may waive or modify the requirements
950 of this subsection for a total of 1 fiscal year if the Secretary determines that the waiver or
951 modification is reasonable, based on circumstances described by the State, to ensure the
952 continuation of commercial motor vehicle enforcement activities in the State.
- 953 • (4) Level of state expenditures.-In estimating the average level of a State's expenditures
954 under paragraph (1), the Secretary-
- 955 • (A) may allow the State to exclude State expenditures for federally sponsored demonstration
956 and pilot programs and strike forces;
- 957 • (B) may allow the State to exclude expenditures for activities related to border enforcement
958 and new entrant safety audits; and
- 959 • (C) shall require the State to exclude State matching amounts used to receive Federal
960 financing under section 31104.
- 961 • (g) Use of Unified Carrier Registration Fees Agreement.-Amounts generated under section
962 14504a and received by a State and used for motor carrier safety purposes may be included
963 as part of the State's match required under section 31104 or maintenance of effort required by
964 subsection (f).

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- 965 • (h) Use of Grants To Enforce Other Laws.-When approved as part of a State's plan under
966 subsection (c), the State may use motor carrier safety assistance program funds received
967 under this section-
- 968 • (1) if the activities are carried out in conjunction with an appropriate inspection of a
969 commercial motor vehicle to enforce Federal or State commercial motor vehicle safety
970 regulations, for-
- 971 • (A) enforcement of commercial motor vehicle size and weight limitations at locations,
972 excluding fixed-weight facilities, such as near steep grades or mountainous terrains, where
973 the weight of a commercial motor vehicle can significantly affect the safe operation of the
974 vehicle, or at ports where intermodal shipping containers enter and leave the United States;
975 and
- 976 • (B) detection of and enforcement actions taken as a result of criminal activity, including the
977 trafficking of human beings, in a commercial motor vehicle or by any occupant, including the
978 operator, of the commercial motor vehicle; and
- 979 • (2) for documented enforcement of State traffic laws and regulations designed to promote the
980 safe operation of commercial motor vehicles, including documented enforcement of such
981 laws and regulations relating to noncommercial motor vehicles when necessary to promote
982 the safe operation of commercial motor vehicles, if-
- 983 • (A) the number of motor carrier safety activities, including roadside safety inspections,
984 conducted in the State is maintained at a level at least equal to the average level of such
985 activities conducted in the State in fiscal years 2014 and 2015; and
- 986 • (B) the State does not use more than 10 percent of the basic amount the State receives under
987 a grant awarded under section 31104(a)(1) for enforcement activities relating to
988 noncommercial motor vehicles necessary to promote the safe operation of commercial motor
989 vehicles unless the Secretary determines that a higher percentage will result in significant
990 increases in commercial motor vehicle safety.
- 991 • (i) Evaluation of Plans and Award of Grants.-
- 992 • (1) Awards.-The Secretary shall establish criteria for the application, evaluation, and
993 approval of State plans under this section. Subject to subsection (j), the Secretary may
994 allocate the amounts made available under section 31104(a)(1) among the States.

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- 995 • (2) Opportunity to cure.-If the Secretary disapproves a plan under this section, the Secretary
996 shall give the State a written explanation of the reasons for disapproval and allow the State to
997 modify and resubmit the plan for approval.
- 998 • (j) Allocation of Funds.-
- 999 • (1) In general.-The Secretary, by regulation, shall prescribe allocation criteria for funds made
1000 available under section 31104(a)(1).
- 1001 • (2) Annual allocations.-On October 1 of each fiscal year, or as soon as practicable thereafter,
1002 and after making a deduction under section 31104(c), the Secretary shall allocate amounts
1003 made available under section 31104(a)(1) to carry out this section for the fiscal year among
1004 the States with plans approved under this section in accordance with the criteria prescribed
1005 under paragraph (1).
- 1006 • (3) Elective adjustments.-Subject to the availability of funding and notwithstanding
1007 fluctuations in the data elements used by the Secretary to calculate the annual allocation
1008 amounts, after the creation of a new allocation formula under section 5106 of the FAST Act,
1009 the Secretary may not make elective adjustments to the allocation formula that decrease a
1010 State's Federal funding levels by more than 3 percent in a fiscal year. The 3 percent limit
1011 shall not apply to the withholding provisions of subsection (k).
- 1012 • (k) Plan Monitoring.-
- 1013 • (1) In general.-On the basis of reports submitted by the lead State agency responsible for
1014 administering a State plan approved under this section and an investigation by the Secretary,
1015 the Secretary shall periodically evaluate State implementation of and compliance with the
1016 State plan.
- 1017 • (2) Withholding of funds.-
- 1018 • (A) Disapproval.-If, after notice and an opportunity to be heard, the Secretary finds that a
1019 State plan previously approved under this section is not being followed or has become
1020 inadequate to ensure enforcement of State regulations, standards, or orders described in
1021 subsection (c)(1), or the State is otherwise not in compliance with the requirements of this
1022 section, the Secretary may withdraw approval of the State plan and notify the State. Upon the
1023 receipt of such notice, the State plan shall no longer be in effect and the Secretary shall
1024 withhold all funding to the State under this section.

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- 1025 • (B) Noncompliance withholding.-In lieu of withdrawing approval of a State plan under
1026 subparagraph (A), the Secretary may, after providing notice to the State and an opportunity to
1027 be heard, withhold funding from the State to which the State would otherwise be entitled
1028 under this section for the period of the State's noncompliance. In exercising this option, the
1029 Secretary may withhold-
- 1030 • (i) up to 5 percent of funds during the fiscal year that the Secretary notifies the State of its
1031 noncompliance;
- 1032 • (ii) up to 10 percent of funds for the first full fiscal year of noncompliance;
- 1033 • (iii) up to 25 percent of funds for the second full fiscal year of noncompliance; and
- 1034 • (iv) not more than 50 percent of funds for the third and any subsequent full fiscal year of
1035 noncompliance.
- 1036 • (3) Judicial review.-A State adversely affected by a determination under paragraph (2) may
1037 seek judicial review under chapter 7 of title 5. Notwithstanding the disapproval of a State
1038 plan under paragraph (2)(A) or the withholding of funds under paragraph (2)(B), the State
1039 may retain jurisdiction in an administrative or a judicial proceeding that commenced before
1040 the notice of disapproval or withholding if the issues involved are not related directly to the
1041 reasons for the disapproval or withholding.
- 1042 • (l) High Priority Program.-
- 1043 • (1) In general.-The Secretary shall administer a high priority program funded under section
1044 31104(a)(2) for the purposes described in paragraphs (2) through (5).
- 1045 • (2) Activities related to motor carrier safety.-The Secretary may make discretionary grants to
1046 and enter into cooperative agreements with States, local governments, federally recognized
1047 Indian tribes, other political jurisdictions as necessary, and any person to carry out high
1048 priority activities and projects that augment motor carrier safety activities and projects
1049 planned in accordance with subsections (b) and (c), including activities and projects that-
- 1050 • (A) increase public awareness and education on commercial motor vehicle safety;
- 1051 • (B) target unsafe driving of commercial motor vehicles and noncommercial motor vehicles in
1052 areas identified as high risk crash corridors;
- 1053 • (C) improve the safe and secure movement of hazardous materials;
- 1054 • (D) improve safe transportation of goods and persons in foreign commerce;
- 1055 • (E) demonstrate new technologies to improve commercial motor vehicle safety;

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- 1056 • (F) support participation in performance and registration information systems management
- 1057 under section 31106(b)-
- 1058 • (i) for entities not responsible for submitting the plan under subsection (c); or
- 1059 • (ii) for entities responsible for submitting the plan under subsection (c)-
- 1060 • (I) before October 1, 2020, to achieve compliance with the requirements of participation; and
- 1061 • (II) beginning on October 1, 2020, or once compliance is achieved, whichever is sooner, for
- 1062 special initiatives or projects that exceed routine operations required for participation;
- 1063 • (G) conduct safety data improvement projects-
- 1064 • (i) that complete or exceed the requirements under subsection (c)(2)(P) for entities not
- 1065 responsible for submitting the plan under subsection (c); or
- 1066 • (ii) that exceed the requirements under subsection (c)(2)(P) for entities responsible for
- 1067 submitting the plan under subsection (c);
- 1068 • (H) support, through the use of funds otherwise available for such purposes-
- 1069 • (i) the recognition, prevention, and reporting of human trafficking, including the trafficking
- 1070 of human beings-
- 1071 • (I) in a commercial motor vehicle; or
- 1072 • (II) by any occupant, including the operator, of a commercial motor vehicle;
- 1073 • (ii) the detection of criminal activity or any other violation of law relating to human
- 1074 trafficking; and
- 1075 • (iii) enforcement of laws relating to human trafficking;
- 1076 • (I) otherwise support the recognition, prevention, and reporting of human trafficking; and
- 1077 • (J) otherwise improve commercial motor vehicle safety and compliance with commercial
- 1078 motor vehicle safety regulations.
- 1079 • (3) Innovative technology deployment grant program.-
- 1080 • (A) In general.-The Secretary shall establish an innovative technology deployment grant
- 1081 program to make discretionary grants to eligible States for the innovative technology
- 1082 deployment of commercial motor vehicle information systems and networks.
- 1083 • (B) Purposes.-The purposes of the program shall be-
- 1084 • (i) to advance the technological capability and promote the deployment of intelligent
- 1085 transportation system applications for commercial motor vehicle operations, including

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- 1086 commercial motor vehicle, commercial driver, and carrier-specific information systems and
1087 networks; and
- 1088 • (ii) to support and maintain commercial motor vehicle information systems and networks-
 - 1089 • (I) to link Federal motor carrier safety information systems with State commercial motor
1090 vehicle systems;
 - 1091 • (II) to improve the safety and productivity of commercial motor vehicles and drivers; and
 - 1092 • (III) to reduce costs associated with commercial motor vehicle operations and Federal and
1093 State commercial motor vehicle regulatory requirements.
 - 1094 • (C) Eligibility.-To be eligible for a grant under this paragraph, a State shall-
 - 1095 • (i) have a commercial motor vehicle information systems and networks program plan
1096 approved by the Secretary that describes the various systems and networks at the State level
1097 that need to be refined, revised, upgraded, or built to accomplish deployment of commercial
1098 motor vehicle information systems and networks capabilities;
 - 1099 • (ii) certify to the Secretary that its commercial motor vehicle information systems and
1100 networks deployment activities, including hardware procurement, software and system
1101 development, and infrastructure modifications-
 - 1102 • (I) are consistent with the national intelligent transportation systems and commercial motor
1103 vehicle information systems and networks architectures and available standards; and
 - 1104 • (II) promote interoperability and efficiency to the extent practicable; and
 - 1105 • (iii) agree to execute interoperability tests developed by the Federal Motor Carrier Safety
1106 Administration to verify that its systems conform with the national intelligent transportation
1107 systems architecture, applicable standards, and protocols for commercial motor vehicle
1108 information systems and networks.
 - 1109 • (D) Use of funds.-Grant funds received under this paragraph may be used-
 - 1110 • (i) for deployment activities and activities to develop new and innovative advanced
1111 technology solutions that support commercial motor vehicle information systems and
1112 networks;
 - 1113 • (ii) for planning activities, including the development or updating of program or top level
1114 design plans in order to become eligible or maintain eligibility under subparagraph (C);
 - 1115 • (iii) for the operation and maintenance costs associated with innovative technology;

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- 1116 • (iv) for the detection of, and enforcement actions taken as a result of, criminal activity
- 1117 (including the trafficking of human beings)-
- 1118 • (I) in a commercial motor vehicle; or
- 1119 • (II) by any occupant, including the operator, of a commercial motor vehicle; and
- 1120 • (v) in addition to any funds otherwise made available for the recognition, prevention, and
- 1121 reporting of human trafficking, to support the recognition, prevention, and reporting of
- 1122 human trafficking.
- 1123 • (E) Secretary authorization.-The Secretary is authorized to award a State funding for the
- 1124 operation and maintenance costs associated with innovative technology deployment with
- 1125 funds made available under sections 31104(a)(1) and 31104(a)(2).
- 1126 • ***(4) Immobilization grant program.-***
- 1127 • (A) Definition of passenger-carrying commercial motor vehicle.-In this paragraph, the term
- 1128 "passenger-carrying commercial motor vehicle" **has the meaning given the term**
- 1129 **"commercial motor vehicle" in section 31301.**
- 1130 • ***(B) Establishment.-The Secretary shall establish an immobilization grant program under***
- 1131 ***which the Secretary shall provide to States discretionary grants for the immobilization or***
- 1132 ***impoundment of passenger-carrying commercial motor vehicles that-***
- 1133 • ***(i) are determined to be unsafe; or***
- 1134 • ***(ii) fail inspection.***
- 1135 • (C) List of criteria for immobilization.-The Secretary, in consultation with State commercial
- 1136 motor vehicle entities, shall develop a list of commercial motor vehicle safety violations and
- 1137 defects that the Secretary determines warrant the immediate immobilization of a passenger-
- 1138 carrying commercial motor vehicle.
- 1139 • (D) Eligibility.-A State shall be eligible to receive a grant under this paragraph only if the
- 1140 State has the authority to require the immobilization or impoundment of a passenger-carrying
- 1141 commercial motor vehicle-
- 1142 • (i) with respect to which a motor vehicle safety violation included in the list developed under
- 1143 subparagraph (C) is determined to exist; or
- 1144 • (ii) that is determined to have a defect included in that list.
- 1145 • (E) Use of funds.-A grant provided under this paragraph may be used for-

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- 1146 • (i) the immobilization or impoundment of passenger-carrying commercial motor vehicles
1147 described in subparagraph (D);
- 1148 • (ii) safety inspections of those passenger-carrying commercial motor vehicles; and
- 1149 • (iii) any other activity relating to an activity described in clause (i) or (ii), as determined by
1150 the Secretary.
- 1151 • (F) Secretary authorization.-The Secretary may provide to a State amounts for the costs
1152 associated with carrying out an immobilization program using funds made available under
1153 section 31104(a)(2).
- 1154 • (5) Commercial motor vehicle enforcement training and support grant program.-
- 1155 • (A) In general.-The Secretary shall administer a commercial motor vehicle enforcement
1156 training and support grant program funded under section 31104(a)(3), under which the
1157 Secretary shall make discretionary grants to eligible entities described in subparagraph (C)
1158 for the purposes described in subparagraph (B).
- 1159 • (B) Purposes.-The purposes of the grant program under subparagraph (A) are-
- 1160 • (i) to train non-Federal employees who conduct commercial motor vehicle enforcement
1161 activities; and
- 1162 • (ii) to develop related training materials.
- 1163 • (C) Eligible entities.-An entity eligible for a discretionary grant under the program described
1164 in subparagraph (A) is a nonprofit organization that has-
- 1165 • (i) expertise in conducting a training program for non-Federal employees; and
- 1166 • (ii) the ability to reach and involve in a training program a target population of commercial
1167 motor vehicle safety enforcement employees.

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Exhibit 9:
49 USC §31132. Definitions

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- 1203 • **49 USC §31132. Definitions**
- 1204 • **In this subchapter-**
- 1205 • (1) "**commercial motor vehicle**" means a self-propelled or towed vehicle used on the
- 1206 highways in **interstate commerce** to transport passengers or property, if the vehicle-
- 1207 • (A) has a gross vehicle weight rating or gross vehicle weight of at least **10,001 pounds**,
- 1208 whichever is greater;
- 1209 • (B) is designed or used to transport more than 8 passengers (including the driver) for
- 1210 compensation;
- 1211 • (C) is designed or used to transport more than 15 passengers, including the driver, and is not
- 1212 used to transport passengers for compensation; or
- 1213 • (D) is used in transporting material found by the Secretary of Transportation to be hazardous
- 1214 under section 5103 of this title and transported in a quantity requiring placarding under
- 1215 regulations prescribed by the Secretary under section 5103.
- 1216 • (2) "employee" means an operator of a commercial motor vehicle (including an independent
- 1217 contractor when operating a commercial motor vehicle), a mechanic, a freight handler, or an
- 1218 individual not an employer, who-
- 1219 • (A) directly affects commercial motor vehicle safety in the course of employment; and
- 1220 • (B) is not an employee of the United States Government, a State, or a political subdivision of
- 1221 a State acting in the course of the employment by the Government, a State, or a political
- 1222 subdivision of a State.
- 1223 • (3) "employer"-
- 1224 • (A) means a person engaged in a business affecting interstate commerce that owns or leases a
- 1225 commercial motor vehicle in connection with that business, or assigns an employee to
- 1226 operate it; but
- 1227 • (B) does not include the Government, a State, or a political subdivision of a State.
- 1228 • (4) "interstate commerce" means trade, traffic, or transportation in the United States between
- 1229 a place in a State and-
- 1230 • (A) a place outside that State (including a place outside the United States); or
- 1231 • (B) another place in the same State through another State or through a place outside the
- 1232 United States.

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- 1233 • (5) "intrastate commerce" means trade, traffic, or transportation in a State that is not
1234 interstate commerce.
- 1235 • (6) "medical examiner" means an individual licensed, certified, or registered in accordance
1236 with regulations issued by the Federal Motor Carrier Safety Administration as a medical
1237 examiner.
- 1238 • (7) "regulation" includes a standard or order.
- 1239 • (8) "State" means a State of the United States, the District of Columbia, and, in sections
1240 31136 and 31140–31142 ¹ of this title, a political subdivision of a State.
- 1241 • (9) "State law" includes a law enacted by a political subdivision of a State.
- 1242 • (10) "State regulation" includes a regulation prescribed by a political subdivision of a State.
- 1243 • (11) "United States" means the States of the United States and the District of Columbia.

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Exhibit 10:

49 USC §31136. United States Government regulations

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- 1283 • **49 USC §31136. United States Government regulations**
- 1284 • (a) Minimum Safety Standards.-Subject to section 30103(a) of this title, the Secretary of
- 1285 Transportation shall prescribe regulations on commercial motor vehicle safety. The
- 1286 regulations shall prescribe minimum safety standards for commercial motor vehicles. At a
- 1287 minimum, the regulations shall ensure that-
- 1288 • (1) commercial motor vehicles are maintained, equipped, loaded, and operated safely;
- 1289 • (2) the responsibilities imposed on operators of commercial motor vehicles do not impair
- 1290 their ability to operate the vehicles safely;
- 1291 • (3) the physical condition of operators of commercial motor vehicles is adequate to enable
- 1292 them to operate the vehicles safely and the periodic physical examinations required of such
- 1293 operators are performed by medical examiners who have received training in physical and
- 1294 medical examination standards and, after the national registry maintained by the Department
- 1295 of Transportation under section 31149(d) is established, are listed on such registry;
- 1296 • (4) the operation of commercial motor vehicles does not have a deleterious effect on the
- 1297 physical condition of the operators; and
- 1298 • (5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper,
- 1299 receiver, or transportation intermediary to operate a commercial motor vehicle in violation of
- 1300 a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.
- 1301 • (b) Eliminating and Amending Existing Regulations.-The Secretary may not eliminate or
- 1302 amend an existing motor carrier safety regulation related only to the maintenance, equipment,
- 1303 loading, or operation (including routing) of vehicles carrying material found to be hazardous
- 1304 under section 5103 of this title until an equivalent or more stringent regulation has been
- 1305 prescribed under section 5103.
- 1306 • *(c) Procedures and Considerations.-(1) A regulation under this section shall be prescribed*
- 1307 *under section 553 of title 5 (without regard to sections 556 and 557 of title 5).*
- 1308 • (2) Before prescribing regulations under this section, the Secretary shall consider, to the
- 1309 extent practicable and consistent with the purposes of this chapter-
- 1310 • (A) costs and benefits; and
- 1311 • (B) State laws and regulations on commercial motor vehicle safety, to minimize their
- 1312 unnecessary preemption.
- 1313 • (d) Effect of Existing Regulations.-If the Secretary does not prescribe regulations on
- 1314 commercial motor vehicle safety under this section, regulations on commercial motor vehicle
- 1315 safety prescribed by the Secretary before October 30, 1984, and in effect on October 30,
- 1316 1984, shall be deemed in this subchapter to be regulations prescribed by the Secretary under
- 1317 this section.
- 1318 • (e) Exemptions.-The Secretary may grant in accordance with section 31315 waivers and
- 1319 exemptions from, or conduct pilot programs with respect to, any regulations prescribed under
- 1320 this section.
- 1321 • (f) Regulatory Impact Analysis.-
- 1322 • (1) In general.-Within each regulatory impact analysis of a proposed or final major rule
- 1323 issued by the Federal Motor Carrier Safety Administration, the Secretary shall, whenever
- 1324 practicable-
- 1325 • (A) consider the effects of the proposed or final rule on different segments of the motor
- 1326 carrier industry; and
- 1327 • (B) formulate estimates and findings based on the best available science.

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- (2) Scope.-To the extent feasible and appropriate, and consistent with law, an analysis described in paragraph (1) shall-
- (A) use data that is representative of commercial motor vehicle operators or motor carriers, or both, that will be impacted by the proposed or final rule; and
- (B) consider the effects on commercial truck and bus carriers of various sizes and types.
- (g) Public Participation.-
- (1) In general.-If a proposed rule under this part is likely to lead to the promulgation of a major rule, the Secretary, before publishing such proposed rule, shall-
- (A) issue an advance notice of proposed rulemaking; or
- (B) proceed with a negotiated rulemaking.
- (2) Requirements.-Each advance notice of proposed rulemaking issued under paragraph (1) shall-
- (A) identify the need for a potential regulatory action;
- (B) identify and request public comment on the best available science or technical information relevant to analyzing potential regulatory alternatives;
- (C) request public comment on the available data and costs with respect to regulatory alternatives reasonably likely to be considered as part of the rulemaking; and
- (D) request public comment on available alternatives to regulation.
- (3) Waiver.-This subsection does not apply to a proposed rule if the Secretary, for good cause, finds (and incorporates the finding and a brief statement of reasons for such finding in the proposed or final rule) that an advance notice of proposed rulemaking is impracticable, unnecessary, or contrary to the public interest.

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Exhibit 11:

President Trump’s Executive Order 14286

“Enforcing Commonsense Rules of

the Road for America’s Truck Drivers.”

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LEGAL STATUS

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LEGAL STATUS

Enforcing Commonsense Rules of the Road for America's Truck Drivers

A Presidential Document by the Executive Office of the President on 05/02/2025

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President: Donald J. Trump

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Signing Date: April 28, 2025

PUBLISHED DOCUMENT: 2025-07786 (90 FR 18759)

Executive Order 14286 (/executive-order/14286) of April 28, 2025

Enforcing Commonsense Rules of the Road for America's Truck Drivers

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1 . Purpose. America's truck drivers are essential to the strength of our economy, the security of our Nation, and the livelihoods of the American people. Every day, truckers perform the demanding and dangerous work of transporting the Nation's goods to businesses, customers, and communities safely, reliably, and efficiently.

Proficiency in English, which I designated as our official national language in Executive Order 14224 (/executive-order/14224) of March 1, 2025 (Designating English as the Official Language of the United States), should be a non-negotiable safety requirement for professional drivers. They should be able to read and understand traffic signs, communicate with traffic safety, border patrol, agricultural checkpoints, and cargo weight-limit station officers. Drivers need to provide feedback to their employers and customers and receive related directions in English. This is common sense.

That is why Federal law requires that, to operate a commercial vehicle, a driver must "read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records." Yet this requirement has not been enforced in years, and America's roadways have become less safe.

My Administration will enforce the law to protect the safety of American truckers, drivers, passengers, and others, including by upholding the safety enforcement regulations that ensure that anyone behind the wheel of a commercial vehicle is properly qualified and proficient in our national language, English.

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Sec. 2 . Policy. It is the policy of my Administration to support America's truckers and safeguard our roadways by enforcing the commonsense English-language requirement for commercial motor vehicle drivers and removing needless regulatory burdens that undermine the working conditions of America's truck drivers. This order will help ensure a safe, secure, and efficient motor carrier industry.

Sec. 3 . Upholding English Proficiency Requirements for Commercial Motor Vehicle Operators. (a) The Secretary of Transportation, acting through the Administrator of the Federal Motor Carrier Safety Administration (FMCSA), shall, within 60 days of the date of this order, rescind the guidance document titled, "English Language Proficiency Testing and Enforcement Policy MC-ECE-2016-006," issued on June 15, 2016, and issue new guidance to FMCSA and enforcement personnel outlining revised inspection procedures necessary to ensure compliance with the requirements of 49 CFR 391.11(b)(2) ([https://www.ecfr.gov/current/title-49/section-391.11#p-391.11\(b\)\(2\)\)](https://www.ecfr.gov/current/title-49/section-391.11#p-391.11(b)(2)))).

(b) In carrying out subsection (a) of this section, the Secretary of Transportation, through the Administrator of the FMCSA, shall take all necessary and appropriate actions, consistent with applicable law, to ensure that the out-of-service criteria are revised such that a violation of the English language proficiency requirement results in the driver being placed out-of-service, including by working with the relevant entities responsible for establishing the out-of-service criteria. (printed page 18760)

Sec. 4 . Strengthening Commercial Driver's License Security for Safer Commercial Motor Vehicle Operations. The Secretary of Transportation, through the Administrator of the FMCSA, shall:

(a) review non-domiciled commercial driver's licenses (CDLs) issued by relevant State agencies to identify any unusual patterns or numbers or other irregularities with respect to non-domiciled CDL issuance; and

(b) evaluate and take appropriate actions to improve the effectiveness of current protocols for verifying the authenticity and validity of both domestic and international commercial driving credentials.

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Sec. 5 . Supporting America's Truck Drivers. Within 60 days of the date of this order, the Secretary of Transportation shall identify and begin carrying out additional administrative, regulatory, or enforcement actions to improve the working conditions of America's truck drivers.

Sec. 6 . General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Department of Transportation shall provide funding for this order's publication in the *Federal Register*.



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THE WHITE HOUSE, April 28, 2025. Filed 5-1-25; 8:45 am]
[FR Doc. 2025-07786 (/d/2025-07786)]

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Exhibit 12:

English Language Proficiency Testing and

Enforcement Policy MC-ECE-

2016-006” issued June 14, 2016.

United States of America vs Michael D. Millard May 19, 2025

U.S. Department
of TransportationFederal Motor Carrier
Safety Administration

Memorandum

ACTION: English Language Proficiency
Testing and Enforcement Policy
MC-ECE-2016-006

Date: JUN 15 2016

From: William A. Quade, *W. Quade*
Associate Administrator for Enforcement

Reply to
Attn. of:

To: All FMCSA Staff

PURPOSE:

This policy memorandum provides guidance to Federal Motor Carrier Safety Administration (FMCSA) personnel conducting safety investigations, audits, and inspections of commercial motor vehicles (CMV) and drivers using the Commercial Vehicle Safety Alliance's (CVSA) North American Inspection Standards. This policy removes the requirement to place drivers out of service for English Language Proficiency (ELP) violations and changes the Agency's standard for determining non-compliance with the ELP requirements at 49 CFR § 391.11(b)(2) based on direction from the Office of the Secretary (OST) and the U.S. Department of Justice (DOJ).

CANCELLATION:

This policy memorandum supersedes the policy memoranda issued on this subject titled, "Placing Drivers Out of Service for Violating 49 CFR 391.11(b)(2) English Language Proficiency" dated July 20, 2007, and "49 CFR Section 391.11(b)(2) English Language Proficiency" dated February 1, 2008.

BACKGROUND:

Section 391.11(b)(2) of the Federal Motor Carrier Safety Regulations requires drivers operating CMVs in interstate commerce to "read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on required reports and records."

Additionally on April 26, 1995 the North American Free Trade Agreement, Land Transportation Standards Subcommittee on Commercial Motor Vehicle and Driver Standards and Motor Carrier Compliance agreed to a resolution on language proficiency of CMV vehicle drivers as follows: "That in recognition of the three countries' language differences it is the responsibility of the driver and the motor carrier to be able to communicate in the country in which the driver /carrier is operating so that safety is not compromised."

CVSA amended its out-of-service (OOS) criteria, effective April 1, 2005, to include violations of 49 CFR Section 391.11(b)(2). In a July 20, 2007 policy memorandum, the Office of Enforcement issued guidance instructing inspectors to cite drivers and/or motor carriers for violations of 49 CFR 391.11(b)(2) when a driver fails to communicate in English sufficiently to understand and respond to official inquiries and directions, and to place the driver out-of-service. The same memorandum provided guidance and an assessment tool to confirm a driver's ability to communicate English sufficiently to understand and respond to official inquiries and directions.

In a second ELP policy memorandum, effective February 1 2008 FMCSA staff and enforcement personnel were provided a tool specifically for evaluating a drivers ability to understand U.S. highway traffic signs. The 2008

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policy allowed the driver to explain his/her understanding of the highway traffic signs in a language other than English, provided the inspector is able to understand the explanation.

Additionally, on October 1, 2014, FMCSA published regulatory guidance titled, "Driver Qualifications: Regulatory Guidance Concerning the Applicability of Language Requirement to Drivers Who Do Not Meet the Hearing Standard" [79 FR 59139]. This guidance explained that the English language rule should not be construed to prohibit operation of a commercial motor vehicle (CMV) by hearing impaired drivers who can read and write in the English language but do not speak for whatever reason, and were granted exemptions by FMCSA. Specifically, the guidance advises that a driver who is granted an exemption from 49 CFR 391.41(b)(1) would not be considered unqualified under the English language proficiency requirement in 49 CFR 391.11(b)(2) if the driver is capable of reading and writing in the English language. In that circumstance, the hearing impaired driver satisfies the English language requirement.

More recently, CVSA members voted to remove 49 CFR 391.11(b)(2) from their out of service criteria because they could not substantiate the safety impacts. This change went into effect on April 1, 2015. As a result FMCSA is formally canceling its policy of citing non-compliance with this regulation as an OOS violation, effective immediately.

In addition, FMCSA Grant Applicants are required to sign the FMCSA Title VI Program Assurance, which includes as authorities Title VI of the Civil Rights Act of 1964 (Title VI) and Executive Order #13166 (Limited English Proficiency or LEP). As a result, FMCSA Recipient- conducted enforcement activities (to include inspection activities) are to be implemented in a non-discriminatory manner that comports with the National Origin protection under Title VI generally and affording reasonable accommodation to LEP drivers specifically.

POLICY:

Formal driver interviews to confirm ELP will not be conducted during roadside inspections.

If the driver can communicate sufficiently to complete the inspection or investigation, he/she should not be cited for violations of 391.11(b)(2). If the driver cannot read, write, or speak English but can communicate sufficiently with the inspector/investigator, he/she should not be cited for a violation of 391.11(b)(2).

Tools to facilitate communication such as interpreters, I-Speak cards, cue cards, smart phone applications, and On-Call Telephone Interpretation Service may be used when interacting with drivers. Federal Highway Administration Recipients (primarily State Departments of Transportation) are required to have developed Language Access Plans under their Title VI Programs and may be useful resources to contact regarding available LEP tools and resources. Use of these devices does not constitute a violation of 391.11(b)(2).

If a deaf or hard-of-hearing driver has obtained an exemption from the hearing standard under 49 CFR 391.41(b)(1), the deaf or hard-of-hearing driver satisfies the English language requirement, if they can read and write English sufficiently to communicate.

If a non-English speaking driver acknowledges that he/she does not speak English, the driver should be cited for a violation of Section 391.11(b)(2). However, this is no longer an OOS violation.

This policy does not apply to inspections in Puerto Rico, Guam, the Northern Mariana Islands or American Samoa, as each of these territories has an official language in addition to English.

If a driver is cited for a violation of the ELP requirements and the employing motor carrier provides information advising that the employee has completed English language training, it should be considered sufficient documentation for addressing this violation.

If during an investigation, there is a pattern of violations discovered and the motor carrier is also identified for prioritization by the Safety Measurement System through an Alert in the Driver Fitness BASIC, enforcement action on these violations may be considered.

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EFFECTIVE DATE:

This policy is effective immediately. Please share this information with the State Motor Carrier Safety Assistance Program lead agency.

If you have any questions or comments regarding application of this policy, please contact Bill Mahorney, Chief, Enforcement Division, at 202-493-0001 or Bill.Mahorney@dot.gov.

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Exhibit 13:

**May 12, 2003; Federal Register; Volume 68;
Number 142; 49 CFR Part 391 [Docket
Number FMCSA 1997-2759]; RIN 2126-
AA31 (Formerly RIN 2125-AE19); English
Language Requirements Qualification of
Drivers withdrawal**

Issued on: May 12, 2003.
 Mary E. Peters,
 Federal Highway Administrator,
 IFR Doc. 03-14594 Filed 7-23-03; 8:45 am
 BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 391

[Docket No. FMCSA 1997-2750]

RIN 2126-AA31 (Formerly RIN 2125-AE10)

English Language Requirement; Qualifications of Drivers; Withdrawal

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.
ACTION: Advance notice of proposed rulemaking (ANPRM); withdrawal.

SUMMARY: The FMCSA withdraws its advance notice of proposed rulemaking (ANPRM) requesting comments on potential changes to a provision in the Federal Motor Carrier Safety Regulations (FMCSRs) involving the English language. That provision requires that drivers of commercial motor vehicles (CMVs) operating in interstate commerce be able to "read and speak the English language sufficiently to converse with the general public, understand highway traffic signs and signals, respond to official inquiries, and make entries on reports and records." After analysis and review of the comments, FMCSA has concluded that at this time there is no quantifiable data on which to propose modifying the regulation to require a more stringent or definitive standard, or to require State motor vehicle agencies to administer a specific test for English proficiency.

DATES: The advance notice of proposed rulemaking published on August 26, 1997, at 62 FR 45200 is withdrawn as of July 24, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Moshring, Driver and Carrier Operations Division, (202) 366-4001, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 1997, the Federal Highway Administration (FHWA), predecessor agency to the FMCSA, published an ANPRM in the *Federal Register* (at 62 FR 45200) requesting comments on potential changes to 49

CFR 391.11(b)(2) of the FMCSRs. This provision requires that drivers of CMVs operating in interstate commerce be able to "read and speak the English language sufficiently to converse with the general public, understand highway traffic signs and signals, respond to official inquiries, and make entries on reports and records."

The ANPRM was published in response to a letter from the American Civil Liberties Union (ACLU) to the U.S. Department of Transportation's Office of Civil Rights indicating that this English language requirement may conflict with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.*, as amended, that prohibits discrimination against applicants and beneficiaries in the administration of federally funded programs and activities based on race, color and national origin. In this letter, the ACLU also alleged that the regulation, as written, is overly broad and subject to arbitrary enforcement, causing potential interference with the constitutional guarantees of due process and equal protection.

In the ANPRM, the FHWA stated that § 391.11(b)(2), as promulgated by the former Interstate Commerce Commission (ICC) in 1936, was intended to be enforced through the motor carrier employer. As noted in the ANPRM, the ICC specifically stated that it was the motor carrier employer's responsibility to evaluate the driver's proficiency in the English language. In addition, FHWA noted that the regulation was not intended to be enforced at the roadside. The employer was presumed to know what communication skills may be necessary for the type of cargo handled, the route taken, and the public contact required. The FHWA went on to say that it had never made speaking the English language a specific pre-requisite for obtaining a Commercial Driver License (CDL), and in fact proposed, and later authorized, administration of the CDL test in foreign languages.

The ANPRM asked the following 5 questions:

1. Are there known instances in which a safety problem occurred which could be attributed, in whole or in part, to the driver not being able to read and speak English sufficiently to understand traffic signs or written or verbal instruction relating to the operation, loading or unloading of the vehicle? * * *

2. Do any of the States require drivers who operate commercial motor vehicles exclusively in intrastate commerce to read and speak the English language? * * *

3. How do States typically determine whether or not a driver or motor carrier is in violation of § 391.11(b)(2) or an equivalent

State provision? Are there particular English phrases or terms that are used to test the driver's comprehension of the English language? Are there specific highway signs or messages that are shown to the driver?

4. Are there any cases in which State officials, exercising their authority under State law, have placed drivers out of service for being unable to read or speak the English language, after making a determination that the driver's inability to comprehend the language created a safety risk that was too great to be ignored? * * *

5. How does one measure an individual's level of "English proficiency" or whether that individual has a "working knowledge of English"? * * *

Comments

Fifty-eight comments were received. These came from 9 States, the U.S. Equal Employment Opportunity Commission (EEOC), the ACLU, individual citizens, associations representing various segments of the trucking industry, insurance associations, several trucking companies, individual drivers and trucking industry management, associations representing State and Provincial enforcement and motor vehicle administrators, associations and unions representing drivers, and safety advocates.

Very few of the comments addressed the questions asked in the ANPRM. The vast majority of those commenting viewed the ANPRM as a proposal to lower the current English proficiency standard. The comments from groups representing the trucking industry, labor groups representing drivers, insurance companies and associations, and individual companies and drivers all recommended retaining the current provision. Nine States submitted comments that either recommended retaining the current standard or promulgating a more stringent standard. Of the members of the public who commented, 20 commenters recommended that the FMCSA either retain the current English language standard or enact a more stringent standard.

Mr. Victor Morales submitted a copy of a motion filed by counsel on his behalf in the County Court for Palm Beach County, Florida requesting the Court to declare § 316.302, Florida Statutes (1997), relating to the English proficiency requirement for CMV drivers, unconstitutional on the basis that it was vague, overly broad, and subject to arbitrary enforcement. Two commenters believed that the agency should revise the regulation to require a performance-based standard. Representative Lincoln Diaz-Balart (who represented Congressional District 21 in

Florida opposes FMCSA's current regulation at § 391.11(b)(2) "due to a recurring problem in our state as it pertains to enforcement of this regulation." Representative Diaz-Balart states that his constituents have had their CDLs suspended due to enforcement of § 391.11(b)(2). Examples include, " . . . traffic citations to CDL drivers for not commanding the English language to the satisfaction of the law enforcement officer, thereby giving him or her unfettered discretion; suspension of the licenses by judges, magistrates and/or officers of the peace of those drivers for not being able to communicate in English with the judge when appearing in Court; violation of due process and therefore the posing of many civil rights questions." Representative Diaz-Balart urged the agency to revise § 391.11(b)(2) to protect the constitutional and civil rights of drivers, and to end the arbitrary application of the regulation. Another member of Congress stated that the current regulation ought to be retained for safety reasons. The Advocates for Highway and Auto Safety stated its belief that a "performance-based" standard might result in unacceptably low levels of English proficiency that would directly endanger the traveling public.

The ACLU submitted comments explaining why, in its view, the current regulation has a discriminatory impact upon national and ethnic minorities, and invited discriminatory enforcement. The EEOC stated it shared the concern of the ACLU that as "currently written, the FMCSRs' English fluency requirement may conflict with the Federal civil rights laws." The EEOC suggested drafting a qualification standard in broad terms that could be applied in a manner appropriate to a specific job for a specific employer.

Decision

The FMCSA has decided to withdraw the ANPRM. After analysis and review of the comments, FMCSA has concluded that at this time there is no quantifiable data on which to propose modifying the regulation either to require a more stringent or definitive standard or to require State motor vehicle agencies to administer a specific test for English proficiency.

The FMCSA appreciates the analysis provided by the EEOC and the ACLU relating to the requirements of Title VI. However, the information introduced in response to the ANPRM does not establish that the current regulation requires an unnecessarily high level of English fluency that has resulted in a discriminatory impact or effect based

upon national origin, color or ethnicity. Accordingly, FMCSA believes that the regulation as currently written and properly enforced effectively balances issues of civil rights and highway safety.

In analyzing § 391.11(b)(2) in today's climate, the FMCSA believes that the regulation was, and remains, a requirement imposed to ensure that persons who drive commercial motor vehicles operate safely. As written, the regulation sets forth the qualifications of drivers of CMVs to read and speak the English language and allows each motor carrier employer the flexibility to determine the extent of proficiency needed to enforce it. It provides carriers with the flexibility to individually determine whether a driver has communication skills and English fluency to operate safely on the highway. There is no data available to suggest that this flexibility has caused discrimination or to conclude that motor carriers are employing the English language requirement in anything other than an evenhanded manner, tailored to the requirements of each particular company's operations. Nor do we have evidence to suggest that our State and local partners are subjecting limited English speakers to discrimination based on their race, color or national origin. The intent of the English-only regulation is not to discriminate, but to advance public safety and this is an essential aspect of our program.

Specifically, with regard to concerns about arbitrary or discriminatory enforcement, the FMCSA has found no evidence to suggest that enforcement officers routinely issue citations for lack of English proficiency. To the extent that such enforcement discretion is exercised, the FMCSA believes that such instances are exceedingly rare and may be occasioned by a misunderstanding of the provisions of § 391.11(b)(2). From the comments and the data available, the FMCSA believes that the discretion of enforcement officials to place a driver out of service when he or she constitutes a safety hazard is, and has been used judiciously.

Further, FMCSA finds no inconsistency in its authorization to States to offer CDL tests in languages other than English, while at the same time requiring motor carrier employers to ensure a level of English proficiency for drivers on our public highways. The tests, training and study manuals associated with obtaining a CDL are complex. Therefore, the administration of the CDL test in languages other than English is justified. However, in actual operation on the highway, the CDL

driver must be able, based on the needs of the carrier's operation, to have a sufficient command of English to ensure that safety is not compromised.

After reviewing the comments, the FMCSA is also persuaded that the performance-oriented standard, based on required tasks, as suggested in the ANPRM and advocated by the ACLU and EEOC is, in fact, not substantively different than the current standard to which persons who drive commercial motor vehicles must already adhere. The FMCSA is mindful of the concerns voiced by safety groups and members of the enforcement community that drivers with limited English proficiency may pose a potential safety concern both on the roadway, as well as in situations in which an enforcement officer is conducting a vehicle inspection, weighing a vehicle, or in other routine law enforcement actions. At this time, however, as noted, the FMCSA has no quantifiable data on which to base a proposal that would modify the standards in or scope of the existing regulation at 49 CFR 391.11(b)(2).

One other matter requires comment here. Under Executive Order 13166, titled "Improving Access to Services for Persons with Limited English Proficiency" (65 FR 50121, September 16, 2000), and guidance issued on the same day by the Department of Justice (DOJ), titled "Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency" (65 FR 50123), the Federal government must ensure that no person with limited English Proficiency (LEP) shall be discriminated against on the grounds of race, color or national origin under any program or activity that receives Federal financial assistance.

Consistent with the executive order, the DOJ guidance, and additional guidance issued by the Department of Transportation titled, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries" (66 FR 6733), we believe that the regulation at 49 CFR 391.11(b)(2) is fully consistent with FMCSA's commitment to provide meaningful access to programs and activities that persons with limited English proficiency would seek. We are confident that the rule fulfills its purpose of advancing safety in a manner wholly in keeping with the terms of the executive order and the corresponding guidance.

In view of the foregoing considerations, Docket No. FMCSA-1997-2759 is withdrawn.

Issued on: July 11, 2003.

Annette M. Sandberg,
Acting Administrator.

[FR Doc. 03-16507 Filed 7-23-03; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA-1997-2213 (Formerly
FHWA Docket No. MC-93-34)]

RIN 2126-AA12 (formerly RIN 2125-AD25)

Parts and Accessories Necessary for Safe Operation: Sleeper Berths on Motorcoaches; Withdrawal

AGENCY: Federal Motor Carrier Safety
Administration (FMCSA), DOT.
ACTION: Notice of withdrawal of
proposed rulemaking.

SUMMARY: The FMCSA withdraws its January 12, 1994 Advance Notice of Proposed Rulemaking (ANPRM) relating to the use and design of driver sleeper berths used by the motorcoach industry. Due to other regulatory priorities and minimal interest by the industry concerning this issue, no further action was taken by the FMCSA after publication of the ANPRM. At this time FMCSA chooses not to establish potentially design-restrictive regulatory standards for the use of sleeper berths on motorcoaches without authoritative research to guide their development. Accordingly, the January 12, 1994 ANPRM regarding the use and design of motorcoach sleeper berths is withdrawn.

DATES: The advance notice of proposed rulemaking published on January 12, 1994, at 59 FR 1706 is withdrawn as of July 24, 2003.

FOR FURTHER INFORMATION CONTACT: John Steinhoff, Chief, Commercial Passenger Carrier Safety Division, (202) 366-2174, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On January 12, 1994, the Federal Highway Administration (FHWA) (now FMCSA), issued an ANPRM requesting public comment on the use and design of driver sleeper berths used by the motorcoach industry (59 FR 1706). This action was taken in response to comments received in past years from the motorcoach industry, and ones offered specifically at a motorcoach

industry Zero-Base Review (an initiative in which the agency presumed that no prior regulations existed, and started drafting from a clean slate, or as if we had "zero" regulations). The hearing was held in Miami, Florida, on January 20, 1993. There was some concern among the industry that when the current sleeper berth regulations at 49 CFR 393.76 were promulgated, the differences in design and operation between motorcoaches and trucks may not have been considered by the agency.

The FHWA received nine comments to the docket in response to the ANPRM. The comments varied as to whether the regulations should be amended and whether the agency should prohibit the placement of a sleeper berth in the luggage area (under the passenger compartment) of a motorcoach. The current regulation prohibits placement of the sleeper berth in the cargo compartment. Some commenters believed that specific sleeper berth standards for motorcoaches would improve safety by improving the physical well-being of the driver and by providing an opportunity for a relief driver to get adequate rest.

Due to other regulatory priorities and a minimal interest by the industry concerning this issue, no further action was taken by the FMCSA after these comments were received.

Operationally, the motorcoach industry rarely uses sleeper berths, choosing to transport replacement drivers to rely points for the few non-stop trips that are longer than 500 miles in length. The vast majority of motorcoach trips are broken into segments where less than 10 hours of driving are required. Therefore, FMCSA believes there is no urgent safety need for the agency to initiate regulatory action on this matter.

The FMCSA believes there is presently no research on which to base the development of new, motorcoach-oriented sleeper berth specifications. The current requirement in § 393.76 sets forth the minimum specifications for sleeper berths, and these are far exceeded by the present-day truck manufacturers. While § 393.76 is geared more toward sleeper berth installations in the truck environment, the basic principles set forth for trucks could also be adhered to by motorcoach manufacturers. These principles include: a prohibition from placing the sleeper berth in the cargo compartment (in this case, the luggage compartment), a requirement for an exit from the sleeper berth into the driver's compartment (in this case, the passenger compartment, which also includes the driver's location), and provision for

occupant restraint meeting the spirit of paragraph (b) of § 393.76. When conducting roadside inspections and compliance reviews, FMCSA considers these principles in applying the language of § 393.76 to sleeper berths installed in motorcoaches.

At this time, the FMCSA chooses not to develop regulatory standards for the use of sleeper berths on motorcoaches without authoritative research to guide their development. This could result in design restrictive requirements. Rather, the agency intends to work with the motorcoach manufacturers, the motorcoach industry, and safety organizations, such as the Commercial Vehicle Safety Alliance, to explore the development of a voluntary industry standard for motorcoach sleeper berth manufacture and maintenance. The FMCSA intends to work with these organizations to determine how the principles of § 393.76 apply to current and future motorcoach design and operations.

For these reasons, the January 12, 1994 ANPRM is withdrawn.

Issued on: July 11, 2003.

Annette M. Sandberg,
Acting Administrator.

[FR Doc. 03-16600 Filed 7-23-03; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA-1997-2278 (Formerly
Docket No. MC-98-6)]

RIN 2126-AA19 (formerly RIN 2125-AD76)

Parts and Accessories Necessary for Safe Operation: Television Receivers and Data Display Units; Withdrawal

AGENCY: Federal Motor Carrier Safety
Administration (FMCSA), DOT.
ACTION: Notice of withdrawal of
proposed rulemaking.

SUMMARY: The FMCSA withdraws its April 3, 1996, Notice of Proposed Rulemaking (NPRM) to rescind restrictions on the locations at which television receivers may be positioned within commercial motor vehicles (CMVs). After reviewing the public comments received in response to the NPRM, the agency no longer considers the restrictions to be obsolete and redundant. The agency believes that it is necessary to retain the rule to prohibit unsafe driver behavior, and that doing so is not likely to discourage the use of

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Exhibit 14:

March 16, 2015, article from Transport

Topics CVSA Removes English

Requirement in Updated Out-of-Service

Guidelines

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Government

March 16, 2015 1:45 AM, EDT

CVSA Removes English Requirement In Updated Out-of-Service Guidelines

By Eric Miller, Staff Reporter

This story appears in the March 16 print edition of Transport Topics.

Roadside inspectors no longer will place Mexican or Canadian commercial vehicle drivers operating in the United States out of service if they are unable to communicate in English, according to new Commercial Vehicle Safety Alliance "tolerance guidelines."



Kepler, photo by CVSA

CVSA said the procedures will go into effect April 1.

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Other policy changes in CVSA's 2015 out-of-service handbook include allowing inspectors to take drivers off the road not only for fatigue but also if they are "likely to become impaired" by fatigue.

Last year's fatigue guidance simply stated that drivers be placed out of service when they were so fatigued that they "should not continue the trip."

The changes were approved by CVSA's board and the majority of the membership, said Stephen Keppler, the group's executive director. The manual was sent to members earlier this month.

Other additions allow inspectors to take trucks off the road for deficiencies detected in hydraulic and electric brakes, ranging from loose or missing brake caliper mounting bolts to improperly joined lines and hoses.

The manual also instructs inspectors to place trucks out of service for cracks in the mounting angle iron of fifth-wheel coupling devices.

Keppler said the language requirement was removed this year because lacking command of a language does not create an "imminent hazard" or place a driver in "imminent danger of a crash."

While most of the manual's changes were not difficult for a majority of the CVSA members to approve, the language change "was hotly debated," he said.

Some inspectors expressed concerns that a driver unable to understand commands during a roadside inspection could place an officer in danger, he said.

"When you're under the vehicle checking brakes and other things, if they can't understand you, they could put the officer in a significant safety-risk scenario," Keppler said. "But the out-of-service criteria are highway-safety standards, not officer-safety standards," he added.

For that reason, the organization decided to remove language proficiency as a requirement.

Federal regulations state that, for a commercial vehicle driver to be qualified, he or she must be able to "read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries and to make entries on reports and records."

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Federal Motor Carrier Safety Administration spokesman Duane DeBruyne said there is no conflict between the CVSA out-of-service criteria and federal safety regulations related to English proficiency of drivers.

"While it remains a violation, one that should be recorded — as all violations at the roadside should be recorded — we agree that particular one does not constitute an imminent hazard," DeBruyne said.

"We've been work-studying the issue for over two years," Keppler said. "There's been some additional research that's been done on this, looking at trying to substantiate the link between language proficiency and crash data, but the link has not been established."

Keppler said inspectors have difficulty interpreting the language-proficiency regulation. Because of that challenge, CVSA filed a petition with FMCSA in October seeking clarity on the issue.

Keppler also said CVSA's fatigue out-of-service guidance has been "subjective" and can be difficult for inspectors to enforce.

"So we modified the language in the out-of-service criteria to mirror the actual [FMCSA] regulation," he said. "If it's a regulatory violation, it's an out-of-service condition."

CVSA has petitioned the agency for a clarification of the fatigue regulation, Keppler said.

To illustrate the subjective nature of the fatigue regulation, in 2013, inspectors placed 1,276 drivers out of service for fatigue, he said. That same year, there were 3.5 million roadside driver inspections.

"If you take FMCSA's hours-of-service rulemaking, they use a cost-benefit analysis that projected 13% of drivers were driving fatigued at any point in time," Keppler said.

"Thirteen percent of 3.5 million is close to 450,000 drivers. So if we had a good regulation that was clear and able to be effectively enforced, that number of out-of-service drivers should have gone from 1,200 to 450,000."

More Content About: [CVSA](#)

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Exhibit 15:

SMS CSA snapshot identifying OOS

violations and impact on carrier's score

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Learn About the CSA Prioritization Preview

FMCSA is proposing a new prioritization methodology to keep enforcement efforts focused on the carriers in most need of intervention. Learn more about these changes and how they will improve highway safety.

[Visit the CSA Prioritization Preview](#)

SWIFT TRANSPORTATION CO OF ARIZONA LLC

U.S. DOT#: 54283
Address: 2200 S 75TH AVE
PHOENIX, AZ 85043
Number of Vehicles: 13,875
Number of Drivers: 13,500
Number of Inspections: 22,641

Safety Rating & OOS Rates

(As of 05/02/2025 updated daily
from **SAFER**.)

SATISFACTORY
(Rating Date: 06/19/2006)

Out of Service Rates

Type	OOS %	National Avg %
Vehicle	19.7	23.1
Driver	1.2	6.1
Hazmat	0.6	3.0

Licensing and Insurance

(As of 05/02/2025 updated hourly
from **LDL**)

Active For-Hire Authority		
Type	Yes/No	MC#/MX#
Property	Yes	MC-136818
Passenger	No	
Household Goods	No	
Broker	Yes	MC-136818

BASIC Status (Public Property Carrier View) ?

Behavior Analysis & Safety Improvement Categories (BASICS)

[View CSA Prioritization Preview](#)
Based on a 24-month record ending March 28, 2025

Unsafe Driving	Crash Indicator	Hours-of-Service Compliance	Vehicle Maintenance	Controlled Substances and Alcohol	Not Public Hazardous Materials Compliance	Driver Fitness

Select a BASIC icon above to get details, or view your [Complete SMS Profile](#).

BASIC: Driver Fitness

On-Road Performance

Measure: 0.05 ?

Safety Event Group: 501+ relevant driver inspections

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Report			Vehicle			Measure =		
						Sum of the Total Weight (TotW)		
						Sum of the Time Weight (TnW)		
Inspection Date	Number	State	Plate Number	Plate State	Type	Severity Weight (SW)	Time Weight (TnW)	Total Weight (TotW)
3/22/2025	CANF4W000201	CA	3161368	IN	Truck Tractor	0	3	0
3/22/2025	CAUEHJ005402	CA	3409194	IN	Truck Tractor	0	3	0
3/22/2025	CAUCRG000399	CA	2970016	IN	Truck Tractor	0	3	0
3/22/2025	TXV251799420	TX	3698746	IN	Truck Tractor	0	3	0
3/21/2025	ORAP43030413	OR	3106099	IN	Truck Tractor	0	3	0
3/21/2025	AR7940000580	AR	3608186	IN	Truck Tractor	0	3	0
3/21/2025	CO1467440029	CO	3698162	IN	Truck Tractor	0	3	0
3/21/2025	TNI01RA81484	TN	3697809	IN	Truck Tractor	4	3	12
Violation: 391.41B10-MC Medical (Certificate) - Operating a commercial vehicle without corrective lenses or hearing aid as indicated on the driver's medical certificate. (OOS)						2 + 2 (OOS)		
3/21/2025	TNI034P40063	TN	3227248	IN	Truck Tractor	0	3	0
3/21/2025	TNI031N80080	TN	3518001	IN	Truck Tractor	0	3	0
3/21/2025	TNI032450023	TN	3162448	IN	Truck Tractor	0	3	0
3/21/2025	TNI5Z3041957	TN	3607093	IN	Truck Tractor	0	3	0
3/21/2025	TNI032450020	TN	3227450	IN	Truck Tractor	0	3	0
3/21/2025	MO6348000619	MO	3226974	IN	Truck Tractor	0	3	0
3/21/2025	WVPSC1420619	WV	3698343	IN	Truck Tractor	0	3	0
3/21/2025	KYCV44831583	KY	3409645	IN	Truck Tractor	0	3	0
3/21/2025	KYCV44703318	KY	3607327	IN	Truck Tractor	0	3	0
3/21/2025	IA000P113009	IA	3698140	IN	Truck Tractor	0	3	0
3/21/2025	MILITTJ05425	MI	8869887	MI	Straight Truck	1	3	3
Violation: 391.41A-MCPC Medical (Certificate) - Operating a property-carrying vehicle without possessing a valid medical certificate.						1		
3/21/2025	CAUCAR003208	CA	3519651	IN	Truck Tractor	0	3	0
3/21/2025	AZ7656000616	AZ	3106480	IN	Truck Tractor	0	3	0
3/21/2025	FL3227009393	FL	2971089	IN	Truck Tractor	0	3	0
3/21/2025	LALANW/503582	LA	3225831	IN	Truck Tractor	0	3	0
3/21/2025	INS417009126	IN	2970496	IN	Truck Tractor	0	3	0
3/21/2025	CAUETA000796	CA	3698408	IN	Truck Tractor	0	3	0
3/21/2025	CANEZA001864	CA	3518118	IN	Truck Tractor	0	3	0
3/21/2025	CANEZA001871	CA	3162178	IN	Truck Tractor	0	3	0
3/21/2025	TXV251811733	TX	3161341	IN	Truck Tractor	0	3	0
3/21/2025	TXV251816783	TX	3227142	IN	Truck Tractor	0	3	0
3/20/2025	KYCV41757457	KY	3698061	IN	Truck Tractor	0	3	0
3/20/2025	MIESCOT02573	MI	3226915	IN	Truck Tractor	0	3	0
3/20/2025	NET102000591	NE	3519514	IN	Truck Tractor	0	3	0
3/20/2025	HV7103028605	NV	3698867	IN	Truck Tractor	0	3	0
3/20/2025	CANEBC002298	CA	2971211	IN	Truck Tractor	0	3	0
3/20/2025	CANCTX007026	CA	3409261	IN	Truck Tractor	0	3	0
3/20/2025	CANEBC002295	CA	3408755	IN	Truck Tractor	0	3	0
3/20/2025	SC0396000704	SC	2969743	IN	Truck Tractor	0	3	0
3/20/2025	MO3214000491	MO	3161156	MO	Truck Tractor	0	3	0
3/20/2025	TNI035D41328	TN	3607772	IN	Truck Tractor	0	3	0
3/20/2025	MTU667600842	MT	3227236	IN	Truck Tractor	0	3	0
3/20/2025	AR5080000378	AR	3519300	IN	Truck Tractor	0	3	0
3/20/2025	MACY00003290	MA	3408594	IN	Truck Tractor	0	3	0
Sum of measure weights						1,326	39,319	2,338

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Report			Vehicle			Measure =		
						Sum of the Total Weight (TotW)		
						Sum of the Time Weight (TiW)		
<u>Incident Date</u>	Number	State	Plate Number	Plate State	Type	Severity Weight (SW)	Time Weight (TiW)	Total Weight (TotW)
3/13/2025	CANCOJ006881	CA	3698133	IN	Truck Tractor	0	3	0
3/13/2025	OKN600000788	OK	3161968	IN	Truck Tractor	0	3	0
3/13/2025	CAUCSZ002295	CA	3408406	IN	Truck Tractor	0	3	0
3/13/2025	GA1273000571	GA	3107805	IN	Truck Tractor	0	3	0
3/13/2025	GA1305000315	GA	3698950	IN	Truck Tractor	0	3	0
3/13/2025	NYS PG4030039	NY	2971082	IN	Truck Tractor	0	3	0
3/13/2025	CANE28005707	CA	3107291	IN	Truck Tractor	0	3	0
3/12/2025	NC0006737258	NC	3409897	IN	Truck Tractor	0	3	0
3/12/2025	CAUCBX000628	CA	3226238	IN	Truck Tractor	0	3	0
3/12/2025	CANEKW003136	CA	3106508	IN	Truck Tractor	0	3	0
3/12/2025	CAUCL5004730	CA	2971032	IN	Truck Tractor	0	3	0
3/12/2025	MD1983C00037	MD	3519210	IN	Truck Tractor	0	3	0
3/12/2025	MOW109004686	MO	2970700	IN	Truck Tractor	0	3	0
3/12/2025	VA8028000669	VA	3697950	IN	Truck Tractor	0	3	0
3/12/2025	ID4048001854	ID	3698132	IN	Truck Tractor	0	3	0
3/12/2025	KYCV41015155	KY	360327	IN	Truck Tractor	0	3	0
3/12/2025	NC0006737332	NC	3226209	IN	Truck Tractor	0	3	0
3/12/2025	NC0006737480	NC	3518001	IN	Truck Tractor	0	3	0
3/12/2025	NC0006737548	NC	3409324	IN	Truck Tractor	0	3	0
3/12/2025	NM6230P12FVH	NM	3226202	IN	Truck Tractor	0	3	0
3/12/2025	NM9278P12GN4	NM	3162588	IN	Truck Tractor	0	3	0
3/12/2025	KSHPO3970503	KS	3698502	IN	Truck Tractor	0	3	0
3/12/2025	MICELMS01123	MI	3163051	IN	Truck Tractor	0	3	0
3/12/2025	TXV251813368	TX	3607144	IN	Truck Tractor	0	3	0
3/12/2025	CANDLR005421	CA	3697994	IN	Truck Tractor	0	3	0
3/12/2025	CANDON006094	CA	3517995	IN	Truck Tractor	0	3	0
3/12/2025	CANC20007724	CA	2555128	IN	Truck Tractor	0	3	0
3/12/2025	CANECK003030	CA	3697649	IN	Truck Tractor	0	3	0
3/12/2025	CAUE66000727	CA		CA	Truck Tractor	0	3	0
3/12/2025	TNI033D20067	TN	2531288	IN	Truck Tractor	0	3	0
3/12/2025	WA2134000508	WA	3226201	IN	Truck Tractor	0	3	0
3/12/2025	TNI038F10052	TN	3608092	IN	Truck Tractor	0	3	0
3/12/2025	CO0575732278	CO	3518149	IN	Truck Tractor	0	3	0
3/12/2025	OH0428000074	OH	3226421	IN	Truck Tractor	0	3	0
3/12/2025	CO1691720232	CO	2969999	IN	Truck Tractor	0	3	0
3/12/2025	CO1561500936	CO	3162870	IN	Truck Tractor	0	3	0
3/12/2025	WAX769007377	WA	3162845	IN	Truck Tractor	0	3	0
3/12/2025	TNI034W51239	TN	3517799	IN	Truck Tractor	4	3	12
Violation: 391.41810-MC Medical (Certificate) - Operating a commercial vehicle without corrective lenses or hearing aid as indicated on the driver's medical certificate. (OOS)						2 + 2 (OOS)		
3/12/2025	WA2082001897	WA	2970744	IN	Truck Tractor	0	3	0
3/12/2025	IN9702003668	IN	3607091	IN	Truck Tractor	0	3	0
3/12/2025	INS476002468	IN	3698719	IN	Truck Tractor	0	3	0
3/12/2025	IL4005150825	IL	3107841	IN	Truck Tractor	0	3	0
3/12/2025	TXV251799742	TX	3408686	IN	Truck Tractor	0	3	0
3/12/2025	TXV251807672	TX	3106600	IN	Truck Tractor	0	3	0
Sum of measure weights						1,326	39,319	2,338

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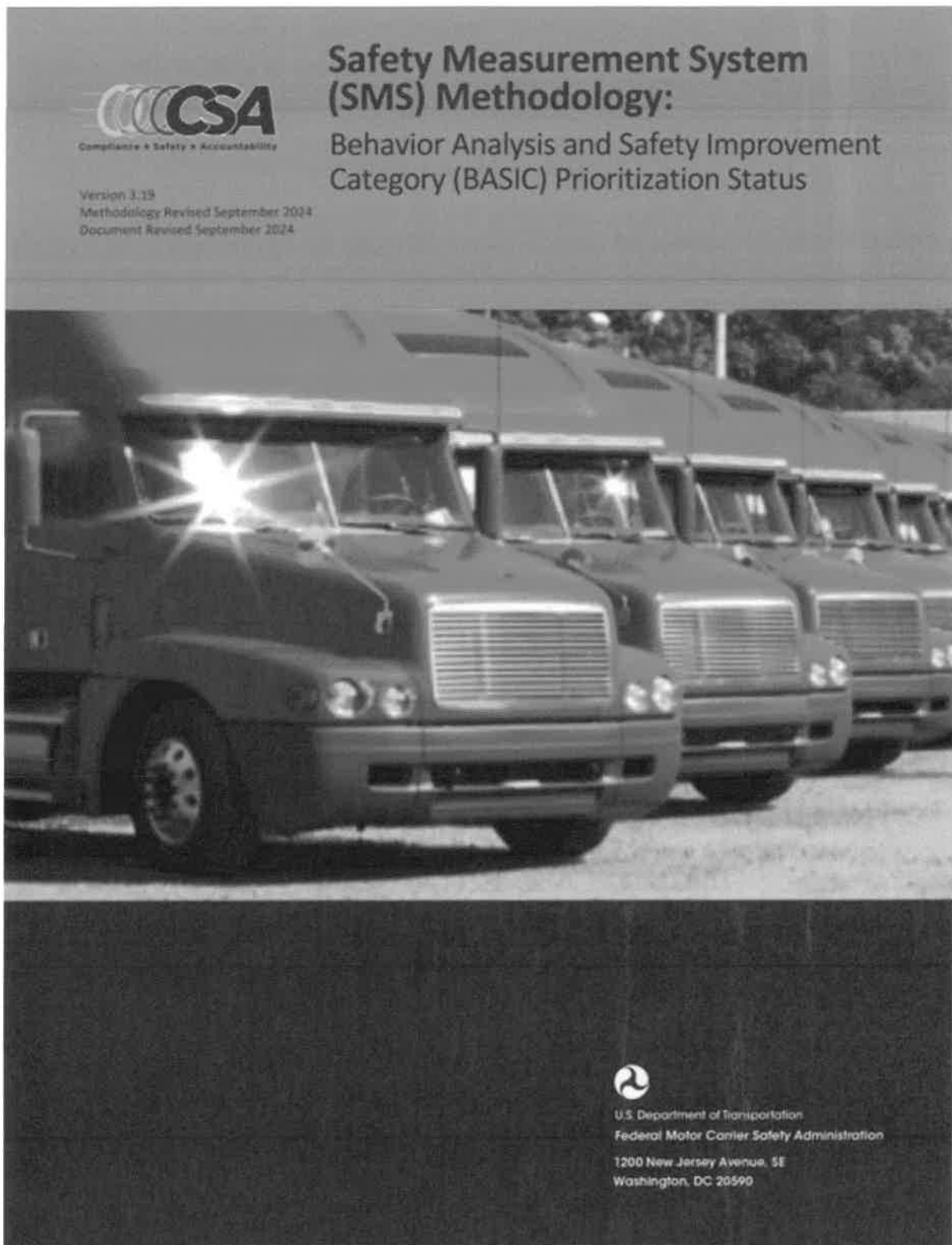
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Exhibit 16:
CSA SMS Methodology

United States of America vs Michael D. Millard May 19, 2025



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United States of America vs Michael D. Millard May 19, 2025

SMS Methodology 2. Design of the SMS BASIC Prioritization Status

management of CMV driver fatigue. *Example violations include: operating a CMV while ill or fatigued, requiring or permitting a property-carrying CMV driver to drive more than 11 hours, failing to preserve RODS for 6 months/failing to preserve supporting documents.*

- **Vehicle Maintenance BASIC**—Failure to properly maintain a CMV and prevent shifting loads, spilled or dropped cargo, and overloading of a CMV. *Example violations include: inoperative brakes, lights, and other mechanical defects, improper load securement, failure to make required repairs.*
- **Controlled Substances/Alcohol BASIC**—Operation of CMVs by drivers who are impaired due to alcohol, illegal drugs, and misuse of prescription or over-the-counter medications. *Example violations include: use or possession of controlled substances or alcohol, failing to implement an alcohol and/or controlled substance testing program.*
- **HM Compliance BASIC** (not publicly available)—Unsafe handling of HM on a CMV. *Example violations include: failing to mark, label, or placard in accordance with the regulations, not properly securing a package containing HM, leaking containers, failing to conduct a test or inspection on a cargo tank when required by the United States Department of Transportation (U.S. DOT).*
- **Driver Fitness BASIC**—Operation of CMVs by drivers who are unfit to operate a CMV due to lack of training, experience, or medical qualifications. *Example violations include: failing to have a valid and appropriate commercial driver's license (CDL), being medically unqualified to operate a CMV, failing to maintain driver qualification files.*

In addition to the seven BASICs, there is an Insurance/Other Indicator used for prioritization that incorporates violations found during investigations. The Insurance/Other Indicator is defined as follows:

- **Insurance/Other Indicator** (not publicly available)—Failure to comply with registration, insurance, or other reporting requirements. *Example violations include: operating a CMV without the minimum level of financial responsibility, failing to maintain copies of crash reports.*

2.2 Data Sources

The SMS assesses an individual carrier's performance by BASIC calculated from information collected from roadside inspections, State-reported CMV crash records, and Acute and Critical Violations from investigations. These data are recorded in the Motor Carrier Management Information System (MCMIS). In addition, motor carrier Census data, also recorded in MCMIS, are used for the identification and normalization of safety event group data. Below are more detailed descriptions of each data source.

- **Roadside inspections** are examinations that a certified Motor Carrier Safety Assistance Program (MCSAP) inspector (usually State or local law enforcement personnel) conducts on individual CMVs and drivers to determine if they are in compliance with the FMCSRs and/or HMRs.
 - **Violations** are recorded during inspections and entered into the MCMIS database. A subset of these violations may result in a driver or vehicle being placed out-of-



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

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SMS Methodology 2. Design of the SMS BASIC Prioritization Status

service (OOS). The OOS violations must be corrected before the affected driver or vehicle is allowed to return to service. The SMS assessments are based on the safety violations listed in Appendix A. These assessments, however, do not include those violations that are: (1) a result of a crash²; (2) assigned exclusively to another entity such as a shipper or Intermodal Equipment Provider (IEP); or (3) indicated as "dismissed/not guilty" based on the adjudicated citation process.

- **Note:** Some roadside inspections are performed following a traffic enforcement stop for a moving violation. Violations reported on the inspection form during such stops do not always result in the issuance of a citation to the driver, but are used in the SMS whether or not a citation is issued.
- **Investigations** are examinations that a certified Safety Investigator (SI) conducts on individual motor carriers to evaluate their compliance with the FMCSRs and/or HMRs. There are two types of investigations: Offsite Investigations and Onsite Investigations. Offsite Investigations address emerging safety problems and do not occur at the carrier's principal place of business (PPOB). During an Offsite Investigation, an SI works with the carrier remotely to identify safety problems using documentation that the carrier provides related to each BASIC. Onsite Investigations occur at the carrier's PPOB, and may focus on specific safety problems (Onsite Focused Investigation) or the carrier's entire operations (Onsite Comprehensive Investigation).
- **Violations** are recorded during investigations and entered into the MCMIS database. Acute and Critical Violations are a subset of these violations. This subset of violations is defined in the current Safety Fitness Procedures ([49 CFR 385 Appendix B](#)). An Acute Violation, also known as a one-time occurrence violation, is triggered by noncompliance so severe that immediate corrective action is required. A Critical Violation, also known as a pattern of occurrence violation, is triggered by a pattern of noncompliance related to the carrier's management or operational controls that is found during an investigation. For more information on each type of violation, see section 2.4.
- **State-Reported Commercial Vehicle Crash Data** are taken from MCMIS and provide information on crashes as reported by State and local law enforcement officials. Crashes found to be not preventable by FMCSA's CPDP will be listed on the SMS Website as "Reviewed – Not Preventable," but excluded when from a carrier's measure and percentile in the Crash Indicator BASIC. A reportable crash is defined in [49 CFR 390.5](#) as a crash that involves a CMV operating on a public roadway, which results in a fatality, an injury, and/or a tow-away.
- **Motor Carrier Census Data** are first collected when a carrier obtains a U.S. DOT number. The

² Only pre-existing violations from post-crash inspections are used in the SMS. Violations from post-crashes inspection flagged as "Y" for Yes or "U" for Unknown as being attributed to the crash are not used.



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Federal Motor Carrier Safety Administration

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Exhibit 17:

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DOT CDL Demographics

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United States of America vs Michael D. Millard May 19, 2025



Demographics of the CMV Workforce

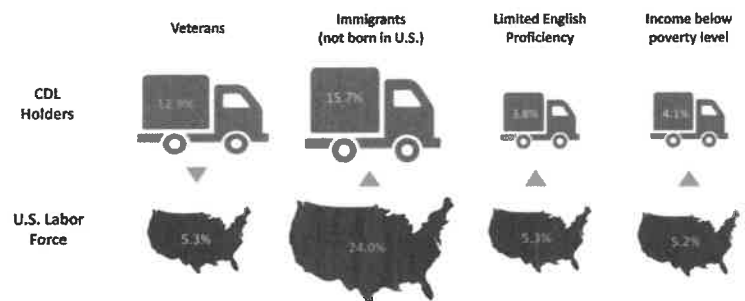
Presentation to WOTAB| August 14, 2023



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Other Variables – Presumed CDL Holders vs. U.S. Labor Force (ACS)

Veterans, Immigrants, Limited English Proficiency, & Poverty Status



¹⁸ The CDL holder group includes more veterans, but fewer immigrants, workers with limited English proficiency, & workers with incomes below poverty level, than the labor force group.



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No data on number of CDL holders that *cannot* speak English.

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Exhibit 18:

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Large truck & bus pocket guide

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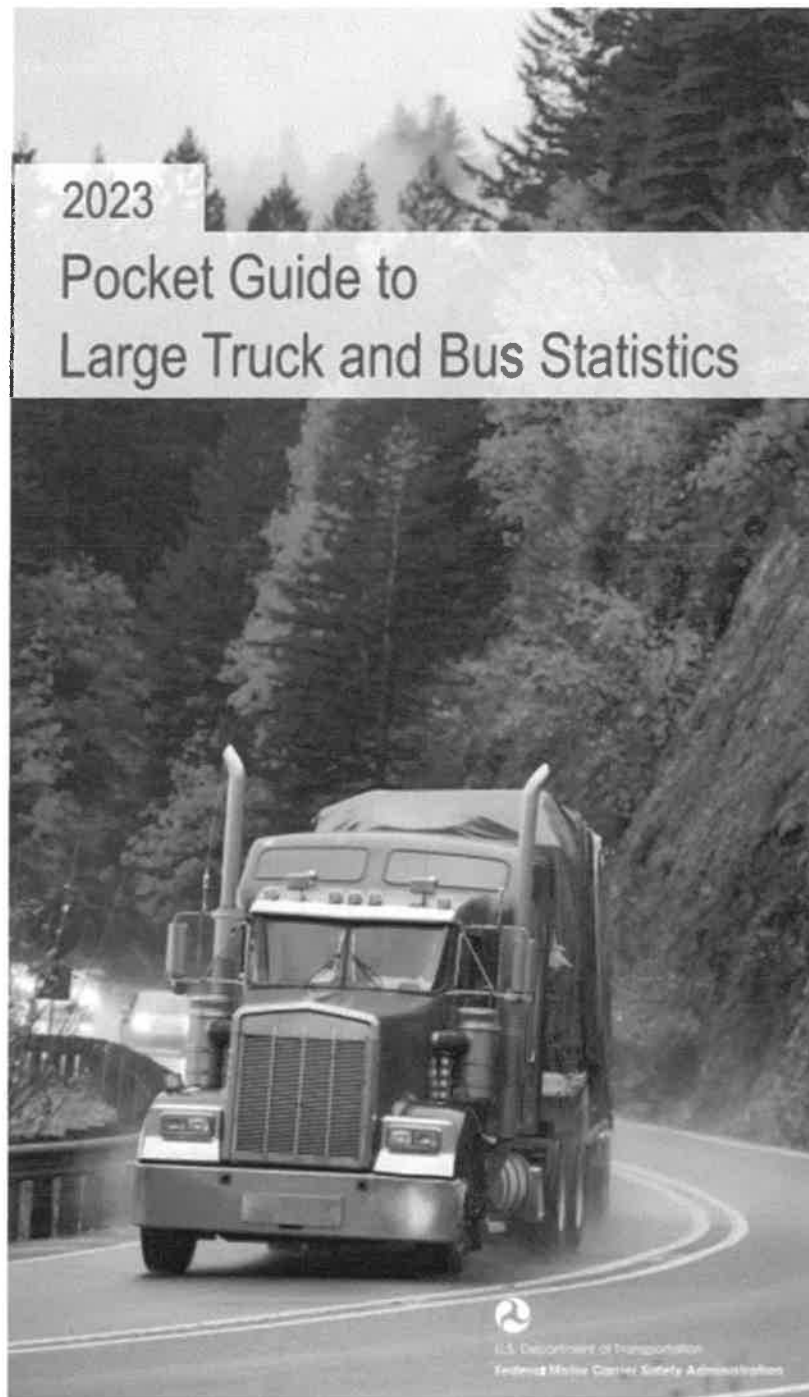
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2024 Pocket Guide has not been released as of May 19, 2025

United States of America vs Michael D. Millard May 19, 2025

1-10 FMCSA-Regulated Carriers by Domicile, 2022

Country	Active Carriers with a USDOT Number	Power Units	CDL Drivers	Total Drivers
United States	793,577	5,254,235	4,038,350	5,643,647
Canada	13,968	113,810	110,440	123,518
Mexico	5,989	34,276	23,556	31,982
Certificate Carriers	152	729	514	629
Commercial Zone Carriers	5,703	31,727	22,150	29,415
Enterprise Carriers	1,047	8,150	7,303	8,199
Long Haul Carriers	70	1,573	682	1,675
Other Countries	310	2,697	213	1,142
All Domiciles	813,844	5,405,018	4,172,559	5,800,289

Notes: U.S. domiciled carriers include carriers domiciled in the 50 U.S. States, the District of Columbia, and the U.S. territories. The sum of the Mexican carrier types may not sum to the total as some of the Mexican-owned carriers are domiciled in the United States. Only interstate carriers and intrastate hazardous materials (HM) carriers with recent activity are included in this table. FMCSA regulates all motor carriers that operate in interstate commerce, and certain requirements for motor carriers and commercial motor vehicles (CMVs) that transport HM in intrastate commerce. Beginning on November 1, 2013, FMCSA's Unified Registration System (URS) rule requires all regulated entities to update their registration information every 24 months. The Agency deactivates the USDOT number of any carrier that fails to comply with the biennial update requirement. A Mexican certificate carrier is a Mexico-domiciled motor carrier that transports exempt commodities or operates as a private motor carrier. These motor carriers were issued authority to operate trucks to points in the United States beyond the commercial zones. FMCSA stopped issuing these certificates in 2002. A Mexican commercial zone carrier is a Mexico-domiciled carrier that has authority to operate only within the U.S.-Mexico border commercial zones in the United States. A Mexican enterprise carrier is a Mexican-owned or controlled carrier that is domiciled in the United States and operates in the United States, conducting cross-border transportation of international cargo that originates in or is destined for a foreign country. A Mexican long-haul carrier is a Mexico-domiciled carrier that has authority to engage in long-haul transportation in the United States as a motor carrier of property (except household goods and placardable HM) in interstate commerce in or beyond the border the border commercial zones. The authority does not allow point-to-point transportation service within the United States for goods other than international cargo. Reports include activity for all U.S. operations from the date the carrier was first allowed to operate up through the date of the current data snapshot.

Data Source: FMCSA, Motor Carrier Management Information System (MCMIS), data snapshot as of December 31, 2022.

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2023 Pocket Guide to Large Truck and Bus Statistics

4.172 million CDL holders vs 5.8 million total CMV drivers 49 CFR Part §391.11(b)(2)
impacts the 5.8 million CMV drivers.

2. INSPECTIONS AND VIOLATIONS

What is an Inspection?

An inspection is an examination of an individual commercial motor vehicle (CMV) and/or driver by an authorized safety inspector. State inspectors conduct approximately 95 percent of inspections, with the remainder conducted by Federal inspectors. The inspection determines whether the driver and/or the CMV is in compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) or the Hazardous Materials Regulations (HMRs), as appropriate. Serious violations result in the issuance of vehicle or driver out-of-service (OOS) orders. These violations must be corrected before the affected driver or vehicle can return to service.

2-1 Inspections Conducted by Federal and State Inspectors, 2018–2022

	2018	2019	2020	2021	2022
Inspections	3,515,954	3,471,201	2,582,347	2,881,848	2,984,331
State	3,390,262	3,361,853	2,556,548	2,835,323	2,898,862
Federal	125,692	109,348	25,799	46,525	85,469

Data Source: FMCSA, Motor Carrier Management Information System (MCMIS), data snapshot as of January 27, 2023.

2-2 Safety Inspectors, Federal and State, 2018–2022

Inspector Type	2018	2019	2020	2021	2022
Safety Inspectors	13,839	13,597	12,782	12,744	12,591
State	13,320	13,089	12,420	12,275	12,100
Federal	519	508	362	469	491

Note: Not all personnel indicated are assigned full-time to conducting inspections.
Data Source: FMCSA, Motor Carrier Management Information System (MCMIS), data snapshot as of January 27, 2023.

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1559 **12,100 state inspectors represent MCSAP officers represented by CVSA**

1560 **491 federal inspectors represent DOT employees**

1561 **The 813,844 carriers with 5.8 million drivers has the 12,591 DOT inspectors hopelessly**

1562 **out numbered**

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Exhibit 19:
2004 DOT Information 11 million CDL
holders 3.0 to 3.3 million CDL jobs

United States of America vs Michael D. Millard May 19, 2025

Commercial Motor Vehicle Facts

Federal Motor Carrier Safety Administration

February 2004

Truck Drivers

2000 "Employed Truck Drivers"

3.0 million to 3.3 million

2003 Commercial Drivers License (CDL) Records

11 million

Sources: Employed Truck Drivers: U.S. Department of Transportation, Bureau of Transportation Statistics (BTS), based on: U.S. Department of Labor, Bureau of Labor Statistics, 2000 National Occupational Employment and Wage Estimates, Transportation and Material Moving Occupations (occupational employment statistics); and 2000-10 National Employment Matrix (detailed occupation by industry, employment projections). CDL Records: FMCSA, Commercial Drivers License Information System (CDLIS). Note: Denotes records in CDLIS, not active CDL drivers or CDL holders.

Hours of Service (HOS) Related Statistics for Large Trucks

1997-2000 Average Fatalities in Fatigue-Related Crashes

375

1997-2000 Average Injuries in Fatigue-Related Crashes

7,500

2002 Total Cost of Fatigue-Related Crashes (1999 Dollars)

\$2.3 billion

Lives That Could Have Been Saved in 2002 by 100% HOS Compliance*

75 to 120

Estimated Annual Cost Savings to Motor Carriers of 100% HOS Compliance*

\$900 million to ~\$1.3 billion

Net Benefits of Rule*

\$1.1 billion to ~\$600 million

* Depending on baseline. Positive dollar figures are based on the assumption that all drivers were in compliance with the old HOS regulations. Negative dollar figures are based on the assumption that some drivers were not in compliance with the old HOS regulations.

Source: FMCSA Regulatory Evaluation, "Hours of Service of Drivers: Driver Rest and Sleep for Safe Operations," RIN2126-AA23.

FY 2003 Roadside Inspections and Out-Of-Service (OOS) Rates for Commercial Vehicles

	Large Trucks	Commercial Buses
Driver Inspections	2,962,274	24,637
Driver OOS Rate	6.9%	5.7%
Vehicle Inspections	2,115,384	35,584
Vehicle OOS Rate	23.2%	10.3%

Source: FMCSA, Motor Carrier Management Information System (MCMIS).

2004 was the last year the DOT published the number of CDL holders, there is a myth the public is told there's a shortage of drivers. Report shows 3.0 to 3.3 million CDL jobs with 11 million CDL holders. Above 2022 report shows 4.172 million CDL holders and 5.8 million total CMV drivers. Freedom of Information Act request from 2023 received June 2024 indicated there were 15 million CDL holders. As a result of the so-called driver shortage, 64,000 H-2B visas for CDL holders were approved in 2024. Based on my research the English-speaking driver situation is caused mostly by asylum seekers.

United States of America vs Michael D. Millard May 19, 2025

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Exhibit 20:

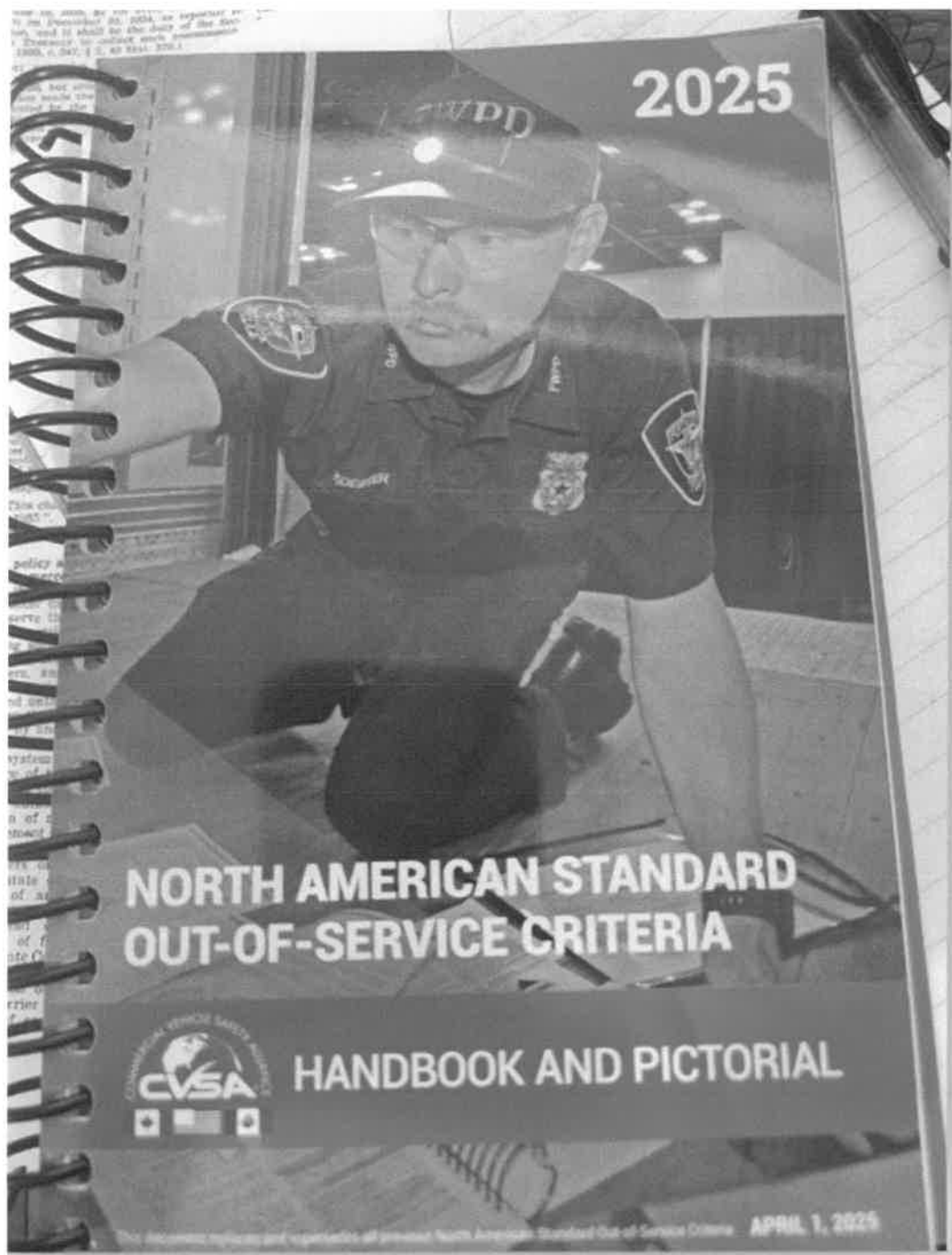
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Excerpts from the 2025 OOS Criteria

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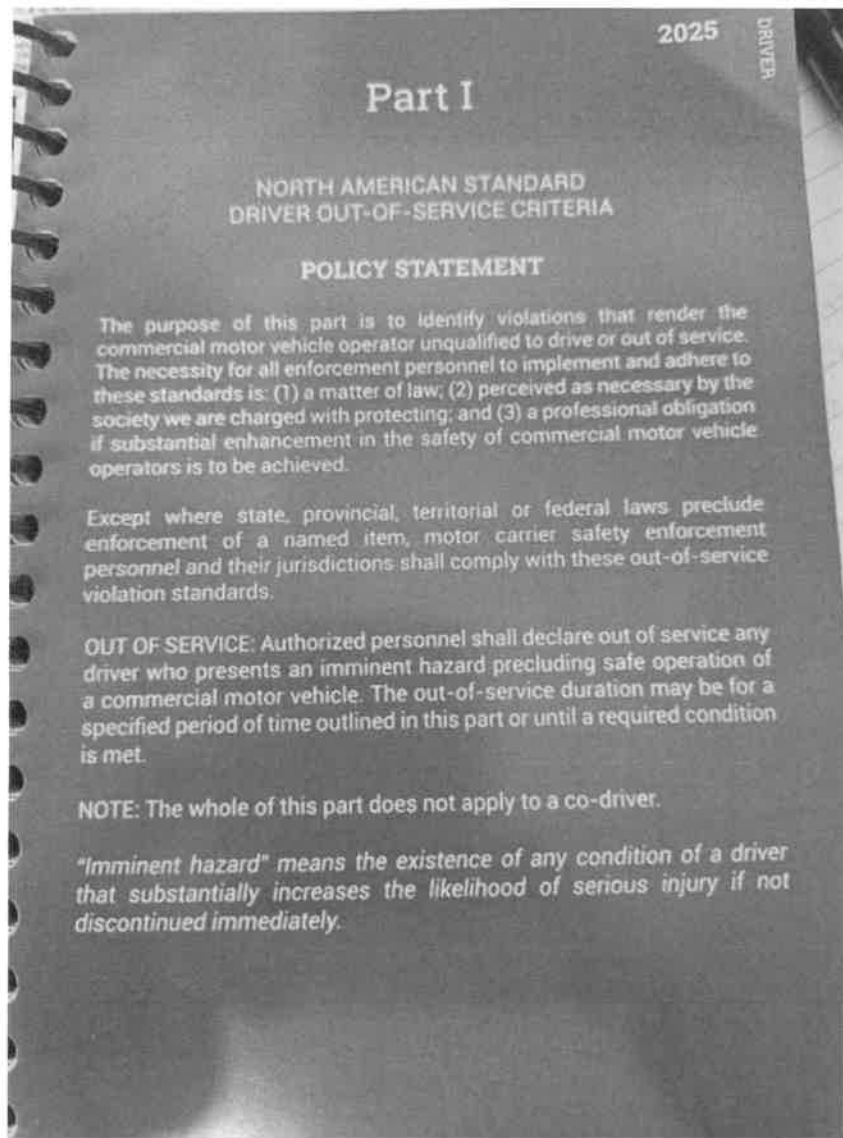
United States of America vs Michael D. Millard May 19, 2025



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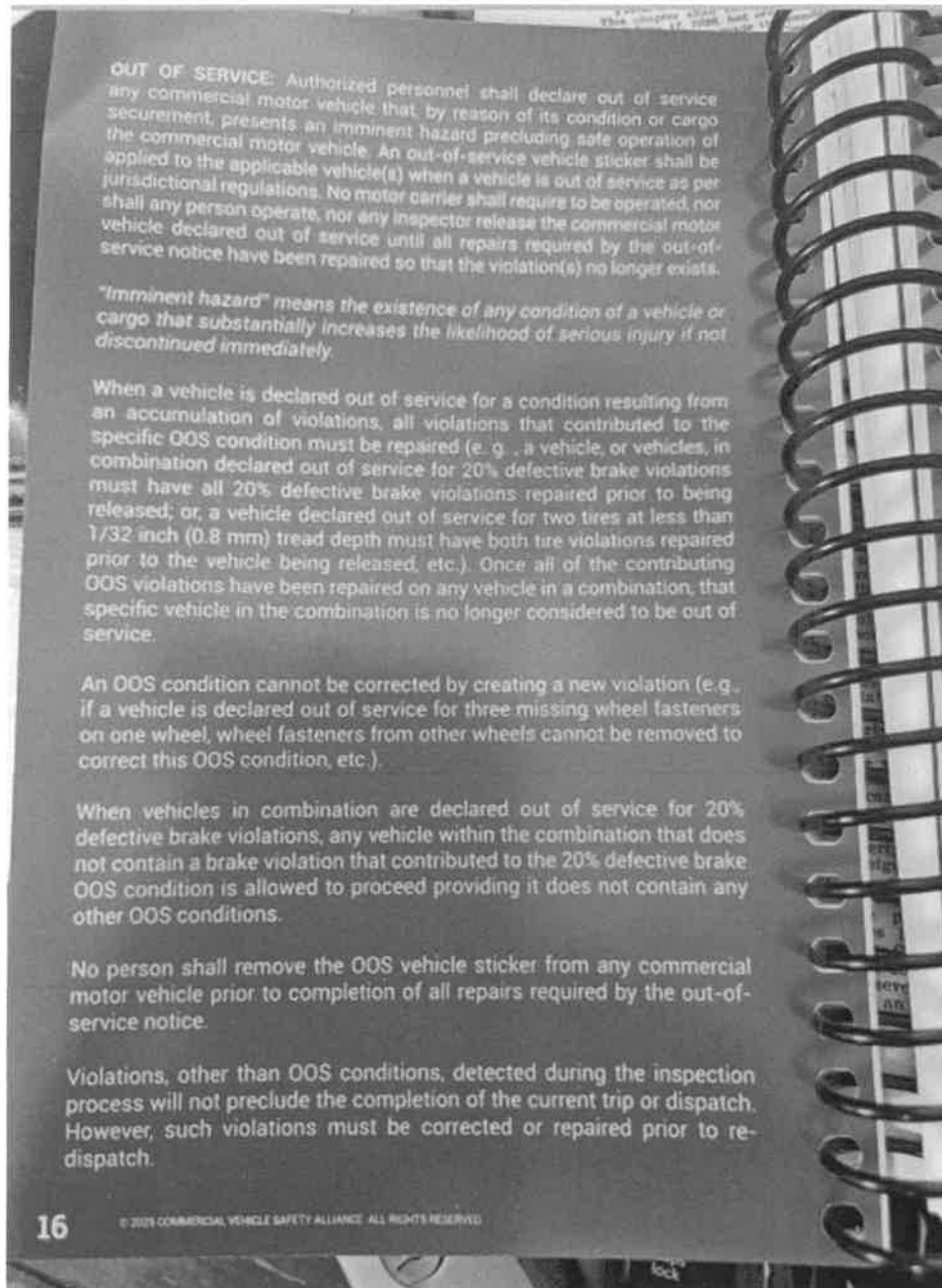
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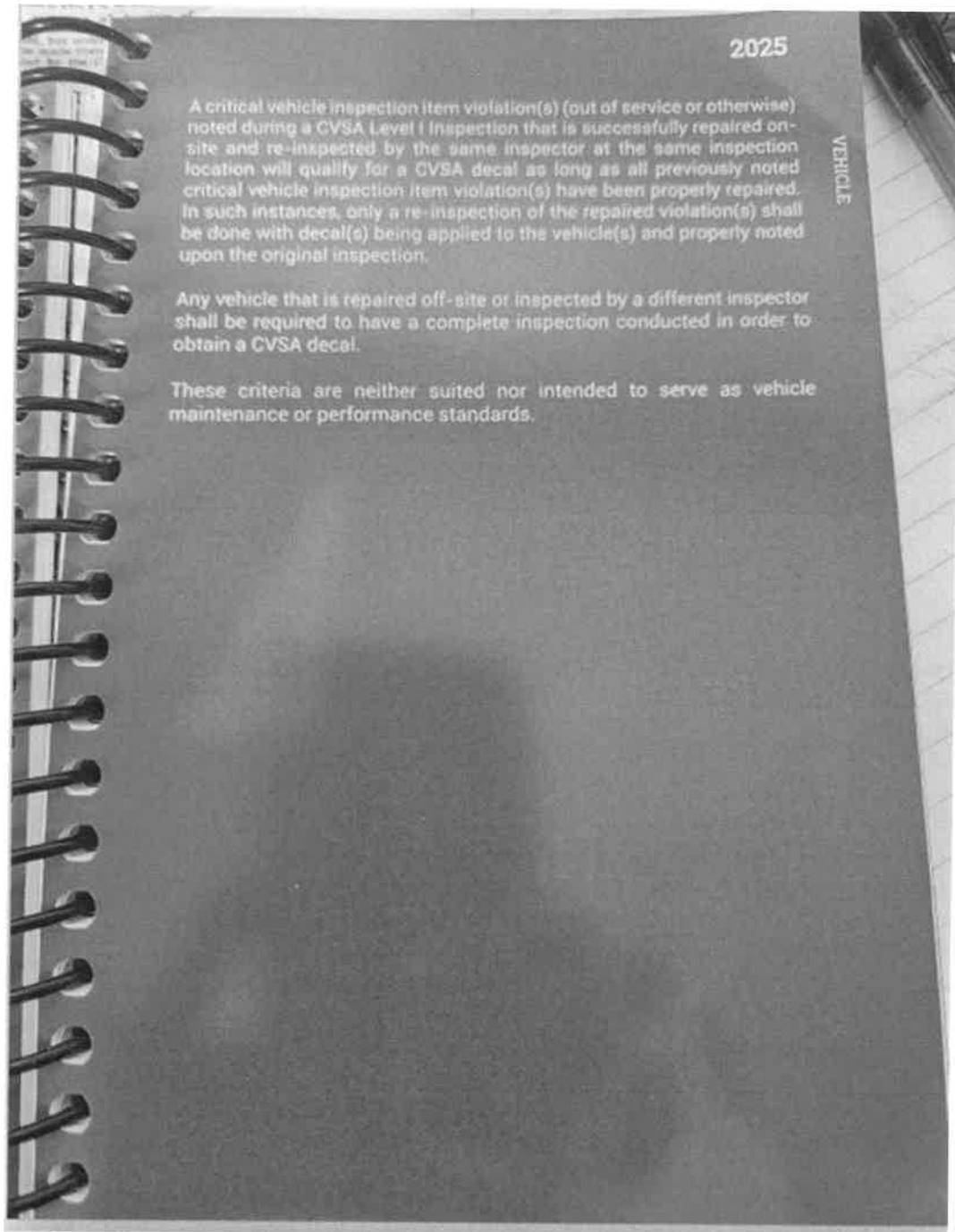
OOS Criteria is prepared by CVSA a 503(c) non-profit organization that falls outside 49 USC §521(b)(5)(A) and (B), but it's stated "(1) is a matter of law;" "Imminent hazard" is mentioned. 49 USC §322(b) requires the DOT to delegate powers and duties to a DOT officer or employee.

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Imminent hazard mentioned. CVSA wasn't granted the authority to identify "imminent hazards."

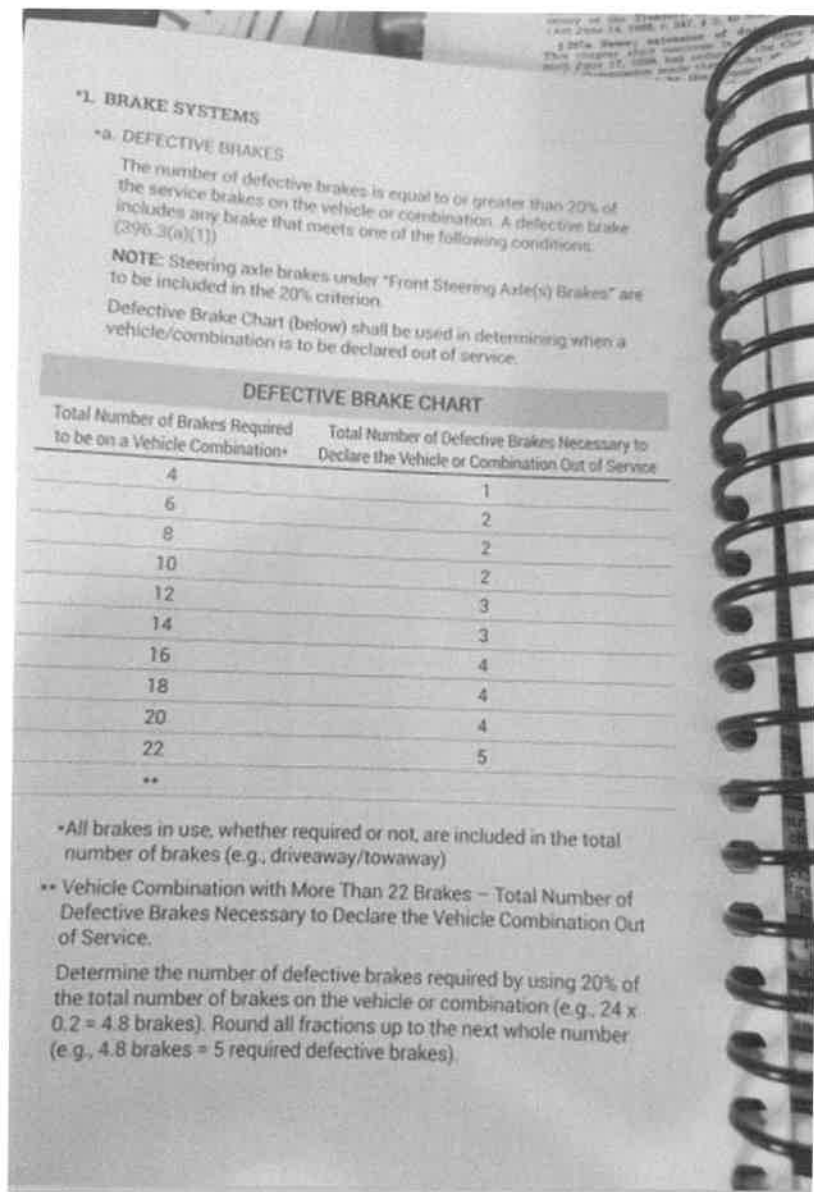
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1611 **OOS Criteria limits scope of 49 CFR Part §391.1(c) and §396.3. DOT doesn't have**
 1612 **regulations to identify "imminent hazard." 49 CFR Appendix B to Part §385 list**
 1613 **"Acute" and "Critical" violations no mention of "imminent hazard" in Federal Motor**
 1614 **Carrier Safety Regulations 49 CFR Parts §350 through §399.**

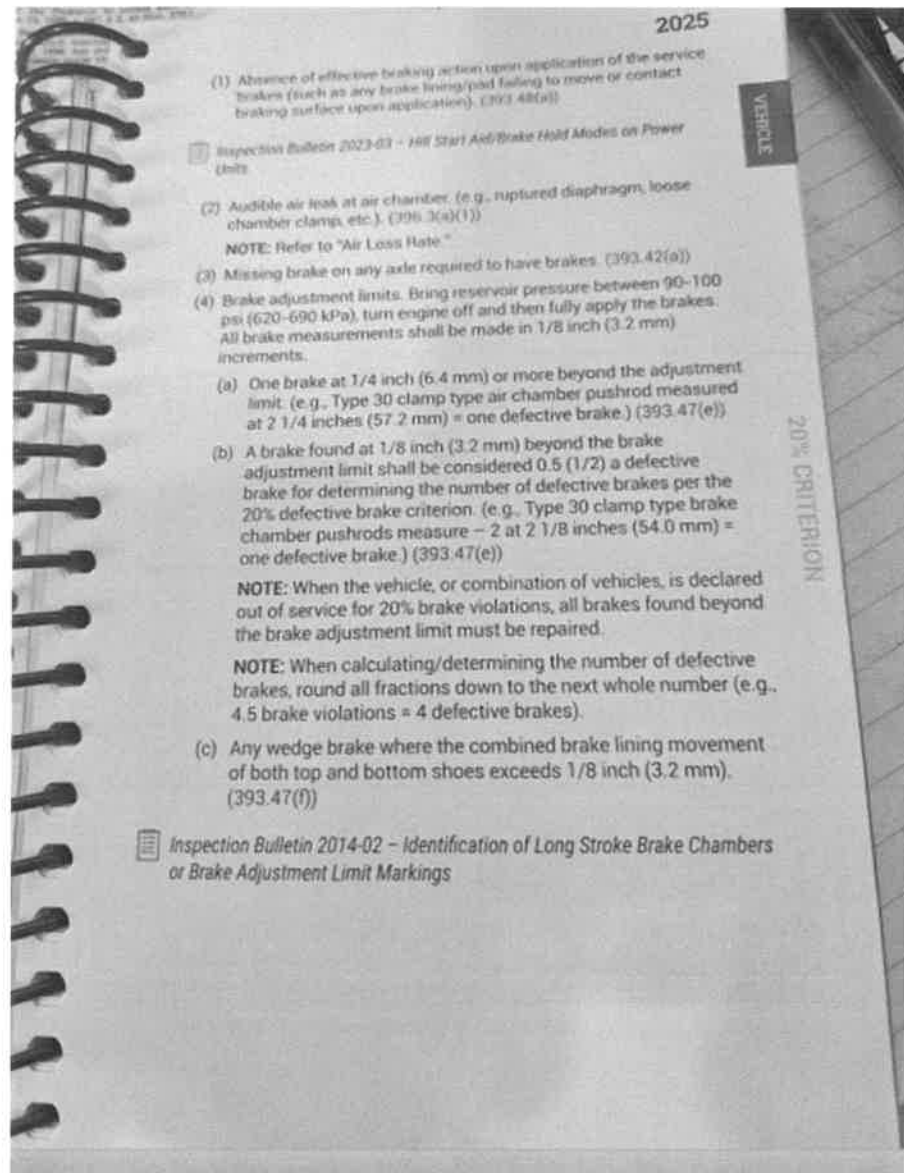
1615 **49 CFR Appendix B to Part 385—Explanation of Safety Rating Process**

1616 **§ 392.6 Scheduling a run which would necessitate the vehicle being operated at speeds in**
 1617 **excess of those prescribed (critical).**

1618 **§ 392.9(a)(1) Requiring or permitting a driver to drive without the vehicle's cargo being**
 1619 **properly distributed and adequately secured (critical).**

1620 **§ 395.1(h)(1)(i)(A) Requiring or permitting a property-carrying commercial motor vehicle**
 1621 **driver to drive more than 15 hours (Driving in Alaska) (critical).**

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OOS violations have a higher point value and impact a carrier's safety management assessment based on the roadside inspection data collected by MCSAP officers. DOT should identify OOS defects per 49 USC §302, §322, §31136, and 5 USC §553.

